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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0665; Project Identifier 2019–NE–25–AD; Amendment 39–21107; AD 2020–08–01]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain General Electric Company (GE) CF34–1A, CF34–3A, CF34–3A1, CF34–3A2, CF34–3B, and CF34–3B1 model turbofan engines. This AD was prompted by an in-flight failure of a fan blade that led to an in-flight shutdown. This AD requires removal and replacement of the affected fan blades. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 15, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 15, 2020.

ADDRESSES: For service information identified in this final rule, contact General Electric Company, GE Aviation, Room 285, 1 Neumann Way, Cincinnati, OH, 45215; phone: 513–552–3272; email: *aviation.fleetsupport@ge.com.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA, 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0665.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0665; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Christopher McGuire, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA, 01803; phone: 781–238–7120; fax: 781–238–7199; email: *chris.mcguire@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain GE CF34–1A, CF34–3A, CF34–3A1, CF34–3A2, CF34–3B, and CF34–3B1 model turbofan engines. The NPRM published in the **Federal Register** on October 15, 2019 (84 FR 55073). The NPRM was prompted by an in-flight failure of a fan blade that led to an in-flight shutdown. The NPRM proposed to require removal and replacement of the affected fan blades. The FAA is issuing this AD to address the unsafe condition on these products.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA considered the comment received. An individual commenter supported the NPRM.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule as proposed.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE Service Bulletin (SB) CF34–BJ S/B 72–0306, dated September 27, 2017, and GE SB CF34–AL S/B 72–0314, dated September 27, 2017. GE SB CF34–BJ S/B 72–0306 describes procedures for removal and replacement of affected fan blades installed on CF34–1A, –3A, –3A1, –3A2, and –3B model turbofan engines. GE SB CF34–AL S/B 72–0314 describes procedures for removal and replacement of affected fan blades installed on CF34–3A1 and –3B1 model turbofan engines. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

The FAA also reviewed GE SB CF34–AL S/B 72–0148, Revision 05, dated July 23, 2015; and GE SB CF34–BJ S/B 72–0123, Revision 04, dated October 21, 2015. GE SB CF34–AL S/B 72–0148 describes procedures for repair of fan blades installed on GE CF34–3A1 and –3B1 model turbofan engines. GE SB CF34–BJ S/B 72–0123 describes procedures for repair of fan blades installed on GE CF34–1A, –3A, –3A1, –3A2, and –3B model turbofan engines.

Costs of Compliance

The FAA estimates that this AD affects 121 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Remove and replace fan blade	2 work-hours × $85 per hour = $170	$11,000	$11,170	$1,351,570

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2020–08–01 General Electric Company: Amendment 39–21107; Docket No. FAA–2019–0665; Project Identifier 2019–NE–25–AD.

(a) Effective Date

This AD is effective May 15, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) CF34–1A, CF34–3A, CF34–3A1, CF34–3A2, CF34–3B, and CF34–3B1 model turbofan engines having a fan blade with a part number listed in Planning Information, paragraph 1.A., of GE Service Bulletin (SB) CF34–AL S/B 72–0314, dated September 27, 2017 or of GE SB CF34–BJ S/B 72–0306, dated September 27, 2017, and with any serial number listed in paragraph 4., Appendix A, of GE SB CF34–AL S/B 72–0314 or of GE SB CF34–BJ S/B 72–0306.

(d) Subject

Joint Aircraft System Component (JASC) Code 7220, Turbine Engine Inlet Section.

(e) Unsafe Condition

This AD was prompted by an in-flight failure of a fan blade that led to an in-flight shutdown. The FAA is issuing this AD to prevent failure of the fan blade. The unsafe condition, if not addressed, could result in failure of one or more engines, loss of thrust control, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

Remove the affected fan blades from service within 90 days after the effective date of this AD and replace with a part eligible for installation.

(h) Definition

A part that is eligible for installation is any fan blade other than those identified by paragraph (c) of this AD or a fan blade that has been repaired per GE SB CF34–AL S/B 72–0148, Revision 05, dated July 23, 2015; or GE SB CF34–BJ S/B 72–0123, Revision 04, dated October 21, 2015.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

For more information about this AD, contact Christopher McGuire, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA, 01803; phone: 781–238–7120; fax: 781–238–7199; email: *chris.mcguire@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) General Electric Company (GE) Service Bulletin (SB) CF34–BJ S/B 72–0306, dated September 27, 2017.

(ii) GE SB CF34–AL S/B 72–0314, dated September 27, 2017.

(3) For GE service information identified in this AD, contact General Electric Company, GE Aviation, Room 285, 1 Neumann Way, Cincinnati, OH, 45215; phone: 513–552–3272; email: *aviation.fleetsupport@ge.com.*

(4) You may view this service information at FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA, 01803. For information on the availability of this material at the FAA, call 781–238–7759.

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

Issued on April 3, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–07451 Filed 4–9–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM20–11–000; Order No. 869]

Reporting of Transmission Investments

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final action.

SUMMARY: The Federal Energy Regulatory Commission (Commission) clarifies its filing instructions for form FERC–730. The Commission makes no modifications or amendments to the Code of Federal Regulations.

DATES: This final action is effective April 10, 2020.

FOR FURTHER INFORMATION CONTACT: Laura Farkas, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6060, *laura.farkas@ferc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

1. By this instant final action, the Commission is amending form FERC–730, originally adopted in Order No. 679.[1] This form must be filed on an annual basis by public utilities that have been granted incentive rate treatment for transmission projects.[2] This instant final action does not amend or modify the text of the Code of Federal Regulations nor does it amend or modify the information collected by the form. This instant final action imposes no new reporting or other obligations on public utilities or on the public. Rather, at the request of the Office of Management and Budget (OMB), this instant final action clarifies the instructions to the form, as explained below.

II. Background

2. On July 20, 2006, the Commission promulgated Order No. 679, which, pursuant to section 219 of the Federal Power Act (FPA),[3] provides incentives for transmission infrastructure investment.[4] The Commission determined that it needed to collect certain data in order to meet the objectives of section 219, thus, the Commission adopted the reporting requirement FERC–730.[5] The form was included as an appendix to the rule,[6] but the form itself was not codified in the Commission's regulations.[7]

III. Discussion

3. The Commission is amending form FERC–730 at the request of OMB,[8] to ensure compliance with the Administrative Procedure Act and the Paperwork Reduction Act of 1995 (PRA).[9] Specifically, the Commission is clarifying the filing instructions. The Commission is not, however, changing the data being collected. Public utilities subject to filing form FERC–730 will not be compelled to file new, additional, or different information.[10] The frequency of filing will also remain unchanged.

4. Examples of changes to the instructions include inserting headers, incorporating instructions for eFiling, minor edits to make existing instructions clearer, and adding information about the PRA. These changes have no impact on the obligations of filers, but rather serve to improve the form and ensure compliance with Federal law. The revised form FERC–730 is attached to this Order. It will be posted in the Commission's eLibrary but will not be published in the **Federal Register** or Code of Federal Regulations.

IV. Information Collection Statement

5. OMB's regulations require approval of certain information collection requirements imposed by agency rules.[11] OMB has previously assigned this information collection OMB Control Number 1902–0239. The clarifications to the instructions in this order will be submitted to OMB to supplement the pending review and request for approval. Respondents subject to the filing requirements of this action will not be penalized for failing to respond to this collection of information unless the collection of information displays a valid OMB control number. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, Phone: (202) 502–8663, email: *ellen.brown@ferc.gov*].

6. This instant final action results in no new, additional, or different public reporting burden. The public reporting burden will be the same as originally determined and discussed in Order No. 679.[12] This instant final action does not require public utilities to file new, additional, or different information, and it does not change the frequency with which they must file.

V. Environmental Analysis

7. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[13] Issuance of this final action does not represent a major Federal action having a significant adverse effect on the human environment under the Commission's regulations implementing the National Environmental Policy Act of 1969. Part 380 of the Commission's regulations lists exemptions to the requirement to draft an Environmental Analysis or Environmental Impact Statement. Included is an exemption for rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[14] This rulemaking is exempt under that provision.

VI. Regulatory Flexibility Act

8. The Regulatory Flexibility Act of 1980 (RFA)[15] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. This instant final action clarifies the instructions of form FERC–730, without creating any additional requirements for filers. The Commission certifies that it will not have a significant economic impact upon participants in Commission proceedings. An analysis under the RFA is therefore not required.

VII. Document Availability

9. In addition to publishing the instant final action without the form itself in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) and in Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington, DC 20426.

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

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

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[1] *Promoting Transmission Investment through Pricing Reform,* Order No. 679, 71 FR 43294 (July 31, 2006), 116 FERC ¶ 61,057 at PP 367–76, app. A (2006), *order on reh'g,* Order No. 679–A, 72 FR 1152 (Jan. 10, 2007), 117 FERC ¶ 61,345 at PP 117–20 (2006).

[2] 18 CFR 35.35(h).

[3] 16 U.S.C. 824.

[4] Order No. 679, 116 FERC ¶ 61,057.

[5] *Id.* P 78.

[6] *Id.* at app. A.

[7] *See* 18 CFR 35.35(h).

[8] The three-year PRA renewal of FERC–730 was initiated in Docket No. IC19–15. FERC–730 was submitted to OMB on May 10, 2019 and is currently pending OMB review.

[9] *See generally* 5 U.S.C. 500 *et seq.;* 44 U.S.C. 3501–21.

[10] 18 CFR 35.35(h).

[11] 5 CFR 1320.13.

[12] Order No. 679, 116 FERC ¶ 61,057 at PP 406–07.

[13] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47897 (1987), FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[14] 18 CFR 380.4(a)(2)(ii).

[15] 5 U.S.C. 601–12.

8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

VIII. Effective Date and Congressional Notification

12. The Commission is issuing this document as an instant final action without a period for public comment. Under 5 U.S.C. 553(b)(3), notice and comment procedures are unnecessary when the agency finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. This instant final action is such a rulemaking, as it merely clarifies the instructions of form FERC–730 to ensure that they are unambiguous and comply with relevant federal law. This instant final action does not require public utilities to file new, additional, or different information, and it does not change the frequency with which they must file. This instant final action does not render a determination concerning the rights or interests of affected parties, and it will not significantly affect public utilities or the general public.

13. This action is effective April 10, 2020. The Commission requires public utilities that have been granted incentive rate treatment for transmission projects to file a Form 730 by April 18th of each year.[16] The changes adopted in this instant final action will be effective for the filings due April 18, 2020.

By the Commission.

Issued: March 19, 2020.

Kimberly D. Bose,

Secretary.

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

Appendix A

OMB Control Number: 1902–0239
Expiration Date: 06/30/20XX
Annual Due Date: April 18
FERC–730, Report of Transmission Investment Activity
Company Name: _____

TABLE 1—ACTUAL AND PROJECTED ELECTRIC TRANSMISSION CAPITAL SPENDING

	Actual at December 31	Projected investment (incremental investment by year for each of the succeeding five calendar years)				
	20____	20____	20____	20____	20____	20____
Capital Spending On Electric Transmission Facilities ($ Thousands) (1).						

Instructions for completing ''Table 1: Actual and Projected Electric Transmission Capital Spending'':

(1) Transmission facilities are defined to be transmission assets as specified in the Uniform System of Accounts in account numbers 350 through 359 (*see,* 18 CFR. Part 101, *Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act,* for account definitions). The Transmission Plant accounts include: Accounts 350 (Land and Land Rights), 351 (Energy Storage Equipment-Transmission), 352 (Structures and Improvements), 353 (Station Equipment), 354 (Towers and Fixtures), 355 (Poles and Fixtures), 356 (Overhead Conductors and Devices), 357 (Underground Conduit), 358 (Underground Conductors and Devices), and 359 (Roads and Trails).

TABLE 2—PROJECT DETAIL (1)

Project description (2)	Project type (3)	Expected project completion date (month/year)	Completion status (4)	Is project on schedule? (Y/N)	If project not on schedule, indicate reasons for delay (5)

Instructions for completing ''Table 2: Project Detail'':

(1) Respondents must list all projects included in Table 1 above, Actual and Projected Electric Transmission Capital Spending, excluding those projects with projected costs less than $20 million. Respondents should add as many additional rows as are necessary to list all relevant projects.

(2) Respondents should include voltage level in the Project Description column.

(3) Respondents should select between the following Project Types to complete the Project Type column: New Build, Upgrade of Existing, Refurbishment/Replacement, or Generator Direct Connection.

(4) Respondents should select between the following designations to complete the Completion Status column: Complete, Under Construction, Pre-Engineering, Planned, Proposed, and Conceptual.

(5) Respondents should select between the following delay designations to complete the Reasons for Delay column: Siting, Permitting, Construction, Delayed Completion of New Generator, or Other (specify).

Paperwork Reduction Act of 1995 (PRA) Statement: The PRA (44 U.S.C. 3501 *et seq.*) requires us to inform you the information collected in the FERC–730 is necessary for the Commission to evaluate its incentive rates policies, and to demonstrate the effectiveness of these policies. Further, the FERC–730 filing requirement allows the Commission to track the progress of electric transmission projects granted incentive-based rates, providing an accurate assessment of the state of the industry with respect to transmission investment, and ensuring that incentive rates are effective in encouraging the development of appropriate transmission infrastructure. Responses are mandatory. 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.

Public reporting burden for reviewing the instructions, completing, and filling out this form is estimated to be 30 hours per response. This form has been assigned OMB Control Number 1902–0239. Send comments regarding the burden estimate or any other aspect of this form to *DataClearance@FERC.gov,* or to the Office of the Executive Director, Information Clearance Officer, Federal Energy Regulatory Commission, 888 First St. NE, Washington, DC 20426.

To file this form, respondents should follow the instructions for eFiling available at *https://www.ferc.gov/docs-filing/efiling.asp.*

[FR Doc. 2020–06707 Filed 4–9–20; 8:45 am]

BILLING CODE 6717–01–P

[16] 18 CFR 35.35(h).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–597]

Schedules of Controlled Substances: Temporary Placement of Fentanyl-Related Substances in Schedule I; Correction

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Correcting amendment.

SUMMARY: In the February 6, 2018, issue of the **Federal Register**, the Drug Enforcement Administration published a temporary scheduling order placing fentanyl-related substances, as defined in the order, and their isomers, esters, ethers, salts and salts of isomers, esters, and ethers in schedule I of the Controlled Substances Act. That order was set to expire on February 6, 2020. However, the ''Temporary Reauthorization and Study of the Emergency Scheduling of Fentanyl Analogues Act,'' which became law on February 6, 2020, extended the temporary control of fentanyl-related substances until May 6, 2021. This correcting amendment reflects the new expiration date mandated by Congress for the temporary scheduling order.

DATES: This correcting amendment is effective April 10, 2020 through May 6, 2021, and is applicable beginning February 6, 2018 until May 6, 2021. If the temporary scheduling of fentanyl-related substances is made permanent, Drug Enforcement Administration (DEA) will publish a document in the **Federal Register** on or before May 6, 2021.

FOR FURTHER INFORMATION CONTACT: Scott A. Brinks, Regulatory Drafting and Policy Support Section, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 362–3261.

SUPPLEMENTARY INFORMATION:

Background

In response to the rapid evolution of substances structurally related to fentanyl on the illicit drug market, the former Acting Administrator of DEA published a temporary scheduling order placing fentanyl-related substances, as defined in the order, in schedule I of the Controlled Substances Act (CSA) pursuant to the temporary scheduling provisions of 21 United States Code (U.S.C.) 811(h)(1). 83 FR 5188, February 6, 2018. That order was effective on the date of publication, and was based on findings by the former Acting Administrator that the temporary scheduling of these substances was necessary to avoid an imminent hazard to the public safety. The temporary scheduling order was codified at 21 Code of Federal Regulations (CFR) 1308.11(h)(30). Under 21 U.S.C. 811(h)(2), the temporary control of fentanyl-related substances was set to expire two years from the effective date of the scheduling order, *i.e.,* on February 6, 2020.

On February 6, 2020, the President signed the Temporary Reauthorization and Study of the Emergency Scheduling of Fentanyl Analogues Act into law as Public Law 116–114. Section 2 of this Act stated, ''notwithstanding any other provision of law, [21 CFR 1308.11(h)(30)] shall remain in effect until May 6, 2021.'' Public Law 116–114 thereby ensured that there was no lapse in the temporary placement in schedule I of fentanyl-related substances. In other words, by operation of law, the temporary placement in schedule I of fentanyl-related substances that began on February 6, 2018, has continued uninterrupted and will remain in effect until May 6, 2021, unless DEA permanently places such substances in schedule I prior to May 6, 2021.

Need for Correction

The February 6, 2018, temporary order placed fentanyl-related substances in 21 CFR 1308.11(h)(30). As discussed above, this order was set to expire on February 6, 2020, but that expiration date was overridden by Congress through enactment of Public Law 116–114. However, the CFR has not yet been updated to reflect the new expiration date. Rather, the reference to fentanyl-related substances in 21 CFR 1308.11(h)(30) was removed from the electronic version of the CFR after February 6, 2020—even though fentanyl-related substances remained in schedule I by virtue of Public Law 116–114. In accordance with the public law, paragraph (h)(30) is hereby being put back into the CFR, along with the new expiration date of May 6, 2021.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1308 is corrected by making the following correcting amendment:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. In § 1308.11, add paragraph (h)(30) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(h) * * *

(30) Fentanyl-related substances, their isomers, esters, ethers, salts and salts of isomers, esters and ethers	9850

(i) Fentanyl-related substance means any substance not otherwise listed under another Administration Controlled Substance Code Number, and for which no exemption or approval is in effect under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355], that is structurally related to fentanyl by one or more of the following modifications:

(A) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;

(B) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxyl, hydroxyl, halo, haloalkyl, amino or nitro groups;

(C) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;

(D) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or

(E) Replacement of the *N*-propionyl group by another acyl group.

(ii) This definition includes, but is not limited to, the following substances:
(A)–(B) [Reserved]

* * * * *

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2020–06984 Filed 4–9–20; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 103

RIN 3142–AA16

Representation—Case Procedures: Election Bars; Proof of Majority Support in Construction-Industry Collective-Bargaining Relationships

AGENCY: National Labor Relations Board.

ACTION: Final rule; delay of effective date.

SUMMARY: On April 1, 2020, the National Labor Relations Board (Board) published a final rule making three amendments to its rules and regulations governing the filing and processing of petitions for a Board-conducted representation election and proof of majority support in construction-industry collective-bargaining relationships. The purpose of this document is to postpone implementation of the rule during the National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak. The Board therefore delays the effective date from June 1, 2020 to July 31, 2020.

DATES: The effective date of the final rule published on April 1, 2020, at 85 FR 18366, is delayed from June 1, 2020 to July 31, 2020.

FOR FURTHER INFORMATION CONTACT: Roxanne L. Rothschild, Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570–0001, (202) 273–1940 (this is not a toll-free number), 1–866–315–6572 (TTY/TDD).

SUPPLEMENTARY INFORMATION: On April 1, 2020, the National Labor Relations Board published a final rule making three amendments to its rules and regulations governing the filing and processing of petitions for a Board-conducted representation election and proof of majority support in construction-industry collective-bargaining relationships. The Board made the rule effective on June 1, 2020.

The Board has determined that a delayed effective date is required to allow the Board's employees and stakeholders to focus on continuity of their operations during the national emergency concerning the Coronavirus pandemic during the next several months, rather than on implementing and understanding the Board's new rule. Therefore, the Board hereby delays the effective date of the rule to July 31, 2020.

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

For the following reasons, the Board finds that notice and comment would be impracticable, unnecessary, and contrary to the public interest for this document delaying the effective date of its final rule. First, given the ongoing pandemic and national emergency, the Board believes that regulated entities should be focused on mitigating the pandemic's serious ramifications and on understanding their significant responsibilities and obligations under the pandemic relief laws enacted by Congress in the last month.[1] They should not be required to expend human capital resources reviewing the rule to ensure they understand the substantive changes, as the rule contemplates, or to adjust to the rule's new obligations. 85 FR at 18397. Given the immediate need to provide the Board's regulated entities with certainty regarding the delayed timing of their responsibilities and obligations under the new rule, submitting this short delay in the rule's effective date to notice and comment would be impractical and contrary to the public interest, per 5 U.S.C. 553(b)(3)(B).

Second, the Board concludes that proceeding directly to final rule is appropriate because notice and comment is unnecessary under the circumstances. The Board believes that this change is in the nature of a minor, technical correction. The Board issued its rule on April 1, 2020, only 5 days ago; therefore, the change in effective date is almost contemporaneous with the rule itself. It is therefore unlikely any parties will have relied on the rule to their detriment, and the minor amendment to the effective date of the rule merely extends the status quo for an additional 60 days. Moreover, the Board's initial choice of effective date, June 1, 2020, was discretionary; the Board did not propose an effective date in the NPRM, nor did it receive any comments suggesting one. Given this swift correction, the Board concludes that notice and comment is unnecessary to extend the effective date an additional 60 days, or to July 31, 2020.

[1] *See* Coronavirus Aid, Relief, and Economic Security Act, Public Law 116–136 (Mar. 27, 2020); Families First Coronavirus Response Act, Public Law 116–127 (Mar. 18, 2020).

Dated: April 6, 2020.

Roxanne L. Rothschild,

Executive Secretary.

[FR Doc. 2020–07537 Filed 4–8–20; 8:45 am]

BILLING CODE 7545–01–P

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 826

RIN 1235–AA35

Paid Leave Under the Families First Coronavirus Response Act; Correction

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Temporary rule; correction and correcting amendment.

SUMMARY: The Department of Labor published in the **Federal Register** on April 6, 2020, a temporary rule to implement public health emergency leave under Title I of the Family and Medical Leave Act (FMLA), and emergency paid sick leave to assist working families facing public health emergencies arising out of Coronavirus Disease 2019 (COVID–19) global pandemic. The leave is created by a time-limited statutory authority established under the Families First Coronavirus Response Act (FFCRA), and is set to expire on December 31, 2020. The FFCRA and the temporary rule do not affect the FMLA after December 31, 2020. Through publication of this document, the Department corrects certain preamble and regulatory text.

DATES: This rule is effective from April 10, 2020, through December 31, 2020. This rule became operational on April 1, 2020.

FOR FURTHER INFORMATION CONTACT: Amy DeBisschop, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210, telephone: (202) 693–0406 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department of Labor published a temporary rule in the **Federal Register** on April 6, 2020 titled, Paid Leave under the Families First Coronavirus Response Act. 85 FR 19326. The temporary rule contained an incorrect calculation of hours worked in a particular scenario (page 19329), a paragraph within the preamble describing regulatory text that was erroneously included (page 19338), along with incorrect cross references in

§§ 826.20 (page 19349, in the third column), 826.22 (page 19350, second column), and 826.100(d) (page 19355, first column) of the regulatory text. Additionally, the Department is inserting omitted titles in § 826.30(d) and (e) (page 19352, first column); inserting a comma in § 826.30(b)(3) to make a citation more accurate (page 19351, second column); correcting the reference to 5102(a)(2) in § 826.30(c)(1)(iii) (page 19351, third column); and making two corrections to the text of § 826.50(d) (page 19353, second column). The Department is capitalizing a defined term for consistency with the remainder of the definition section (page 19348, third column). Finally, the Department is correcting a date in § 826.70(e) and deleting § 826.70(f) (page 19354, first and second columns) to be consistent with the remainder of the regulations. This action makes the necessary corrections in the regulatory text and preamble.

Corrections to Preamble

In rule FR Doc. 2020–07237, published on April 6, 2020 (85 FR 19326), make the following corrections:

1. On page 19329, in the first column, correct by revising ''7.5 hours'' to ''6.5 hours.''

2. On page 19338, in the second column, under ''III. Discussion'' part G is corrected by deleting the final paragraph under the heading ''G. Leave to Care for a Child Due to School or Place of Care Closure or Child Care Unavailability—Intersection between the EFMLEA and the FMLA''.

List of Subjects in 29 CFR Part 826

Wages.

For the reasons set out in the preamble, the Department of Labor corrects 29 CFR part 826 by making the following correcting amendments:

PART 826—PAID LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

■ 1. The authority citation for part 826 continues to read as follows:

Authority: Pub. L. 116–127 sections 3102(b) and 5111(3); Pub. L. 116–136 section 3611(7).

§ 826.10 [Amended]

■ 2. In § 826.10(a), remove ''Subject to a quarantine or isolation order'' and add in its place ''Subject to a Quarantine or Isolation Order''.

■ 3. In § 826.20, revise paragraphs (a)(7) and (b) to read as follows:

§ 826.20 Paid leave entitlements.

(a) * * *

(7) *Caring for an individual.* An Employee may take Paid Sick Leave for the reason described in paragraph (a)(1)(iv) of this section if the Employee is unable to perform work for his or her Employer and if the individual depends on the Employee to care for him or her and is either:

(i) Subject to a Quarantine or Isolation Order as described in paragraph (a)(1)(i) of this section; or

(ii) Has been advised to self-quarantine by a health care provider as described in paragraph (a)(1)(ii) of this section, because of a belief that—

(A) The individual has COVID–19;

(B) The individual may have COVID–19 due to known exposure or symptoms; or

(C) The individual is particularly vulnerable to COVID–19.

* * * * *

(b) *Qualifying reason for Expanded Family and Medical Leave.* An Eligible Employee may take Expanded Family and Medical Leave because he or she is unable to work due to a need to care for his or her Son or Daughter whose School or Place of Care has been closed, or whose Child Care Provider is unavailable, for reasons related to COVID–19. An Eligible Employee has need to take Expanded Family and Medical Leave for the purposes of this paragraph (b) only if no suitable person is available to care for his or her Son or Daughter during the period of such leave.

* * * * *

■ 4. Revise § 826.22 to read as follows:

§ 826.22 Amount of pay for Paid Sick Leave.

(a) Subject to paragraph (c) of this section, for each hour of Paid Sick Leave taken by an Employee for qualifying reasons set forth in § 826.20(a)(1)(i) through (iii), the Employer shall pay the higher of:

(1) The Employee's average regular rate as computed under § 826.25;

(2) The Federal minimum wage to which the Employee is entitled; or

(3) Any State or local minimum wage to which the Employee is entitled.

(b) Subject to paragraph (c) of this section, for each hour of Paid Sick Leave taken by an Employee for qualifying reasons set forth in § 826.20(a)(1)(iv) through (vi), the Employer shall pay the Employee two-thirds of the amount described in § 826.24(a).

(c) The limitations on payments are as follows:

(1) In no event shall an Employer be required to pay more than $511 per day and $5,110 in the aggregate per Employee when an Employee takes Paid Sick Leave for qualifying reasons set forth in § 826.20(a)(1)(i) through (iii).

(2) In no event shall an Employer be required to pay more than $200 per day and $2,000 in the aggregate per Employee when an Employee takes Paid Sick Leave for qualifying reasons set forth in § 826.20(a)(1)(iv) through (vi).

■ 5. In § 826.30, revise paragraphs (b)(3) and (c)(1)(iii) and the heading for paragraph (d) and add a heading for paragraph (e) to read as follows:

§ 826.30 Employee eligibility for leave.

* * * * *

(b) * * *

(3) An Employee who has been employed by a covered Employer for at least thirty calendar days is eligible for Expanded Family and Medical Leave under the EFMLEA regardless of whether the Employee would otherwise be eligible for leave under the FMLA. Thus, for example, an Employee need not have been employed for 1,250 hours of service and twelve months of employment as otherwise required under the FMLA, see § 825.110(a)(1) and (2) of this chapter, to be eligible for leave under the EFMLEA.

(c) * * *

(1) * * *

(iii) The definition of ''health care provider'' contained in this section applies only for the purpose of determining whether an Employer may elect to exclude an Employee from taking leave under the EPSLA and/or the EFMLEA, and does not otherwise apply for purposes of the FMLA or section 5102(a)(2) of the EPSLA.

* * * * *

(d) *Exclusion by OMB from EFMLEA.*

* * *

(e) *Exclusion by OMB from EPSLA.*

* * *

* * * * *

■ 6. Revise § 826.50(d) to read as follows:

§ 826.50 Intermittent leave.

* * * * *

(d) *Calculation of leave.* If an Employee takes Paid Sick Leave or Expanded Family and Medical Leave intermittently as the Employee and Employer have agreed, only the amount of leave actually taken may be counted toward the Employee's leave entitlements. For example, an Employee who normally works forty hours in a workweek and only takes three hours of leave each work day (for a weekly total of fifteen hours) has only taken fifteen hours of the Employee's Paid Sick Leave or 37.5% of a workweek of the

Employee's Expanded Family and Medical Leave entitlement.

■ 7. In § 826.70, revise the section heading and paragraph (e) and remove paragraph (f) to read as follows:

§ 826.70 Leave to care for a child due to School or Place of Care closure or child care unavailability—intersection of EFMLEA and the FMLA.

* * * * *

(e) An Eligible Employee can take a maximum of twelve workweeks of Expanded Family and Medical Leave during the period in which the leave may be taken (April 1, 2020 to December 31, 2020) even if that period spans two FMLA leave twelve-month periods. For example, if an Employer's twelve-month period begins on July 1, and an Eligible Employee took seven weeks of Expanded Family and Medical Leave in May and June, 2020, the Eligible Employee could only take up to five additional weeks of Expanded Family and Medical Leave between July 1 and December 31, 2020, even though the first seven weeks of Expanded Family and Medical Leave fell in the prior twelve-month period.

■ 8. Revise § 826.100(d) to read as follows:

§ 826.100 Documentation of need for leave.

* * * * *

(d) To take Paid Sick Leave for a qualifying COVID–19 related reason under § 826.20(a)(1)(iv) an Employee must additionally provide the Employer with either:

(1) The name of the government entity that issued the Quarantine or Isolation Order to which the individual being care for is subject; or

(2) The name of the health care provider who advised the individual being cared for to self-quarantine due to concerns related to COVID–19.

* * * * *

Signed at Washington, DC, this 8th day of April, 2020.

Cheryl M. Stanton,

Administrator, Wage and Hour Division.

[FR Doc. 2020–07711 Filed 4–8–20; 4:15 pm]

BILLING CODE 4510–27–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 510

North Korea Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending the North Korea Sanctions Regulations to implement the Treasury-administered provisions of the North Korea Sanctions and Policy Enhancement Act of 2016, as amended by the Countering America's Adversaries Through Sanctions Act and the National Defense Authorization Act for Fiscal Year 2020. Specifically, OFAC is incorporating blocking and correspondent account sanctions provisions, adding a new prohibition that is applicable for persons that are owned or controlled by a U.S. financial institution and established or maintained outside the United States, adding new statutory exemptions relevant to certain newly added prohibitions, making technical and conforming edits to three definitions, revising an interpretive provision, and updating the authorities and delegation sections of the regulations. OFAC is also amending the definition of luxury goods.

DATES: This rule is effective April 10, 2020.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website (*www.treasury.gov/ofac*).

Background

On November 4, 2010, OFAC issued the North Korea Sanctions Regulations, 31 CFR part 510 (75 FR 67912, November 4, 2010) (the ''Regulations''). Since then, OFAC has amended the Regulations several times. This rule amends the Regulations to incorporate the Treasury-administered provisions of the North Korea Sanctions and Policy Enhancement Act of 2016, Public Law 114–122, 130 Stat. 93 (22 U.S.C. 9201–9255) (NKSPEA), as amended by the Countering America's Adversaries Through Sanctions Act, Public Law 115–44, 131 Stat. 886 (22 U.S.C. 9201 *et seq.*) (CAATSA) and the National Defense Authorization Act for Fiscal Year 2020, Public Law 116–92, 133 Stat. 1198 (FY 2020 NDAA).

NKSPEA

On February 18, 2016, the President signed NKSPEA into law. Among other things, section 104 of NKSPEA provides that the President, with certain exceptions, shall block and prohibit all transactions in property and interests in property that are in the United States, that come within the United States, or that are or come within control or possession of a U.S. person of: The Government of North Korea, the Workers' Party of Korea, and other persons the President determines knowingly engage in certain North Korea-related activities.

On August 2, 2017, the President signed CAATSA into law. Title III of CAATSA, among other things, amends NKSPEA. Section 311(a) of CAATSA amends section 104(a) of NKSPEA to provide that the President shall, with certain exceptions, block and prohibit all transactions in property and interests in property that are in the United States, that come into the United States, or that are or come into the possession of U.S. persons of any person the President determines knowingly, directly or indirectly, imports, exports, or reexports to or from North Korea any defense article or defense service or engages in certain other North Korea-related activities. Section 104(b) of NKSPEA provides that the President may, with certain exceptions, block any person that knowingly engages in, contributes to, assists, sponsors, or provides financial, material, or technological support for, or goods and services in support of, any sanctioned person.

On December 20, 2019, the President signed the FY 2020 NDAA. Title LXXI of the 2020 NDAA, titled the ''Otto Warmbier North Korea Sanctions and Enforcement Act of 2019,'' among other things, amends NKSPEA by adding new sections 104(g), 201B, and 201C. NKSPEA section 104(g) requires the President to designate any person that he determines knowingly engages in certain specified North Korea-related activities.

New section 201B of NKSPEA requires the Secretary of the Treasury to impose sanctions with respect to any foreign financial institution (FFI) that the Secretary of the Treasury determines, in consultation with the Secretary of State, knowingly on or after April 18, 2020, provides significant financial services to any person designated for the imposition of sanctions with respect to North Korea under NKSPEA subsections 104(a), 104(b), or 104(g), an applicable Executive order, or an applicable United Nations Security Council resolution. Section 201B provides that the Secretary may impose blocking sanctions on such FFIs, or may prohibit or impose strict conditions on the opening or

maintenance of a correspondent account or a payable-through account in the United States.

New section 201C of NKSPEA requires the Secretary of the Treasury, in consultation with the Secretary of State, to prohibit an entity owned or controlled by a U.S. financial institution and established or maintained outside the United States from knowingly engaging in any transaction, directly or indirectly, with the Government of North Korea or any person designated for the imposition of sanctions with respect to North Korea under NKSPEA subsections 104(a), 104(b), or 104(g), an applicable Executive order, or an applicable United Nations Security Council resolution.

Regulatory Amendments

With this rule, OFAC is incorporating the blocking and correspondent or payable-through account sanctions contained in sections 104(a), 104(b), 104(g), and 201B of NKSPEA, as amended by CAATSA and the FY 2020 NDAA (NKSPEA, as amended), into the Regulations as new § 510.201(a)(3)(vii) through (x), respectively. OFAC is incorporating the correspondent or payable-through account sanctions of section 201B of NKSPEA, as amended, in § 510.210(c), and adding a new provision at § 510.214 to implement section 201C of NKSPEA, as amended.

OFAC is also incorporating certain statutory exemptions under NKSPEA, as amended, in new paragraph (f) to § 510.213; amending the definition of luxury goods at § 510.317 to create a regulatory exception to exclude items approved for import, export, or reexport to or into North Korea by the United Nations Security Council; making technical and conforming edits to the definitions of ''effective date'' in § 510.304, ''financial, material, or technological support'' in § 510.306, and ''North Korean person'' in § 510.319; amending the interpretive provision at § 510.413 related to significant transactions; updating the authorities section of the Regulations to incorporate the FY 2020 NDAA and to shorten citations to conform with **Federal Register** guidance; and amending the delegation section at § 510.802 to add the delegation of certain functions with respect to the FY 2020 NDAA.

Public Participation

Because the amendment of the Regulations involves a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of Executive Order 13771, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. 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 control number.

List of Subjects in 31 CFR Part 510

Administrative practice and procedure, Banks, Banking, Blocking of assets, Foreign financial institutions, Foreign trade, Imports, North Korea, Services, United Nations, Vessels, Workers' Party of Korea.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR part 510 as follows:

PART 510—NORTH KOREA SANCTIONS REGULATIONS

■ 1. The authority citation for part 510 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; 28 U.S.C. 2461 note; 50 U.S.C. 1705 note; 22 U.S.C. 9201–9255; 22 U.S.C. 9201 note; Pub. L. 116–92, 133 Stat. 1198; E.O. 13466, 73 FR 36787, 3 CFR, 2008 Comp., p. 195; E.O. 13551, 75 FR 53837, 3 CFR, 2010 Comp., p. 242; E.O. 13570, 76 FR 22291, 3 CFR, 2011 Comp., p. 233; E.O. 13687, 80 FR 819, 3 CFR, 2015 Comp., p. 259; E.O. 13722, 81 FR 14943, 3 CFR, 2016 Comp., p. 446; E.O. 13810, 82 FR 44705, 3 CFR, 2017 Comp., p. 379.

Subpart B—Prohibitions

■ 2. Amend § 510.201 as follows:
■ a. Remove the word ''or'' at the end of paragraph (a)(3)(v)(F).
■ b. Remove the period at the end of paragraph (a)(3)(vi)(B) and add a semicolon in its place.
■ c. Redesignate Notes 3, 4, and 5 to paragraph (a) as Notes 4, 5, and 6 to paragraph (a).
■ d. Add paragraphs (a)(3)(vii) through (x).
■ e. Revise newly redesignated Note 4 to paragraph (a).

The additions and revision read as follows:

§ 510.201 Prohibited transactions involving blocked property.

(a) * * *
(3) * * *

(vii) *Section 104(a) of the North Korea Sanctions and Policy Enhancement Act of 2016, as amended by the Countering America's Adversaries Through Sanctions Act and the National Defense Authorization Act for Fiscal Year 2020 (NKSPEA, as amended).* Any person the Secretary of the Treasury determines, in consultation with the Secretary of State, knowingly:

(A) Directly or indirectly, imports, exports, or reexports to, into, or from North Korea any goods, services, or technology controlled for export by the United States because of the use of such goods, services, or technology for weapons of mass destruction or delivery systems for such weapons and materially contributes to the use, development, production, possession, or acquisition by any person of a nuclear, radiological, chemical, or biological weapon or any device or system designed in whole or in part to deliver such a weapon;

(B) Directly or indirectly, provides training, advice, or other services or assistance, or engages in significant financial transactions, relating to the manufacture, maintenance, or use of any such weapon, device, or system to be imported, exported, or reexported to, into, or from North Korea;

(C) Directly or indirectly, imports, exports, or reexports luxury goods to or into North Korea;

(D) Engages in, is responsible for, or facilitates censorship by the Government of North Korea;

(E) Engages in, is responsible for, or facilitates serious human rights abuses by the Government of North Korea;

(F) Directly or indirectly, engages in money laundering, the counterfeiting of goods or currency, bulk cash smuggling, or narcotics trafficking that supports the Government of North Korea or any senior official or person acting for or on behalf of that Government;

(G) Engages in significant activities undermining cybersecurity through the use of computer networks or systems against foreign persons, governments, or other entities on behalf of the Government of North Korea;

(H) Directly or indirectly, sells, supplies, or transfers to or from the Government of North Korea or any person acting for or on behalf of that Government, a significant amount of precious metal, graphite, raw or semi-finished metals or aluminum, steel,

coal, or software, for use by or in industrial processes directly related to weapons of mass destruction and delivery systems for such weapons, other proliferation activities, the Korean Workers' Party, armed forces, internal security or intelligence activities, or the operation and maintenance of political prison camps or forced labor camps, including outside of North Korea;

(I) Directly or indirectly, imports, exports, or reexports to, into, or from North Korea any arms or related materiel or any defense article or defense service (as such terms are defined in section 47 of the Arms Export Control Act (22 U.S.C. 2794));

(J) Directly or indirectly, purchases or otherwise acquires from North Korea any significant amounts of gold, titanium ore, vanadium ore, copper, silver, nickel, zinc, or rare earth minerals;

(K) Directly or indirectly, sells or transfers to North Korea any significant amounts of rocket, aviation, or jet fuel (except for use by a civilian passenger aircraft outside North Korea, exclusively for consumption during its flight to North Korea or its return flight);

(L) Directly or indirectly, provides significant amounts of fuel or supplies, provides bunkering services, or facilitates a significant transaction or transactions to operate or maintain, a vessel or aircraft that is designated under an applicable Executive order or an applicable United Nations Security Council resolution (as such terms are defined in NKSPEA, as amended), or that is owned or controlled by a person designated under an applicable Executive order or applicable United Nations Security Council resolution (as such terms are defined in NKSPEA, as amended);

(M) Directly or indirectly, insures, registers, facilitates the registration of, or maintains insurance or a registration for, a vessel owned or controlled by the Government of North Korea, except as specifically approved by the United Nations Security Council;

(N) Directly or indirectly, maintains a correspondent account as defined in section 201A(d)(1) of NKSPEA, as amended, with any North Korean financial institution, except as specifically approved by the United Nations Security Council; or

(O) Attempts to engage in any of the conduct described in paragraphs (a)(3)(vii)(A) through (N) of this section;

(viii) *Section 104(b) of NKSPEA, as amended.* Any person the Secretary of the Treasury determines, in consultation with the Secretary of State, knowingly:

(A) Engages in, contributes to, assists, sponsors, or provides financial, material, or technological support for, or goods and services in support of, any person designated pursuant to: An applicable United Nations Security Council resolution (as defined in NKSPEA, as amended); this section; or any applicable Executive order (as defined in NKSPEA, as amended);

(B) Contributed to:

(*1*) The bribery of an official of the Government of North Korea or any person acting for on behalf of that official;

(*2*) The misappropriation, theft, or embezzlement of public funds by, or for the benefit of, an official of the Government of North Korea or any person acting for or on behalf of that official; or

(*3*) The use of any proceeds of any activity described in paragraph (a)(3)(viii)(B)(*1*) or (*2*) of this section;

(C) Materially assisted, sponsored, or provided significant financial, material, or technological support for, or goods or services to or in support of, the activities described in paragraph (a)(3)(viii)(A) or (B) of this section;

(D) Directly or indirectly, purchased or otherwise acquired from the Government of North Korea significant quantities of coal, iron, or iron ore, in excess of the limitations provided in applicable United Nations Security Council resolutions (as defined in NKSPEA, as amended);

(E) Directly or indirectly, purchased or otherwise acquired significant types or amounts of textiles from the Government of North Korea;

(F) Facilitated a significant transfer of funds or property of the Government of North Korea that materially contributes to any violation of an applicable United Nations Security Council resolution (as defined in NKSPEA, as amended);

(G) Directly or indirectly, facilitated a significant transfer to or from the Government of North Korea of bulk cash, precious metals, gemstones, or other stores of value not described under paragraph (a)(3)(vii)(J) of this section;

(H) Directly or indirectly, sold, transferred, or otherwise provided significant amounts of crude oil, condensates, refined petroleum, other types of petroleum or petroleum byproducts, liquefied natural gas, or other natural gas resources to the Government of North Korea (except for heavy fuel oil, gasoline, or diesel fuel for humanitarian use or as excepted under paragraph (a)(3)(vii)(K) of this section);

(I) Directly or indirectly, engaged in, facilitated, or was responsible for the online commercial activities of the Government of North Korea, including online gambling;

(J) Directly or indirectly, purchased or otherwise acquired fishing rights from the Government of North Korea;

(K) Knowingly, directly or indirectly, purchased or otherwise acquired significant types or amounts of food or agricultural products from the Government of North Korea;

(L) Directly or indirectly, engaged in, facilitated, or was responsible for the exportation of workers from North Korea in a manner intended to generate significant revenue, directly or indirectly, for use by the Government of North Korea or by the Workers' Party of Korea;

(M) Conducted a significant transaction or transactions in North Korea's transportation, mining, energy, or financial services industries; or

(N) Facilitated the operation of any branch, subsidiary, or office of a North Korean financial institution, except as specifically approved by the United Nations Security Council, and other than through a correspondent account as described in paragraph (a)(3)(vii)(N) of this section;

(ix) *Section 104(g) of NKSPEA, as amended.* Any person the Secretary of the Treasury determines, in consultation with the Secretary of State, knowingly:

(A) Directly or indirectly, engages in the importation from or exportation to North Korea of significant quantities of:

(*1*) Coal, textiles, seafood, iron, or iron ore;

(*2*) Refined petroleum products or crude oil above limits set by the United Nations Security Council and with which the United States concurs; or

(*3*) Services or technology related to goods specified in paragraph (a)(3)(ix)(A)(*1*) and (*2*) of this section;

(B) Facilitates a significant transfer of funds or property of the Government of North Korea that materially contributes to any violation of an applicable United Nations Security Council resolution (as defined in NKSPEA, as amended);

(C) Directly or indirectly, engages in, facilitates, or is responsible for the exportation of workers from North Korea, or the employment of such workers, in a manner that generates significant revenue, directly or indirectly, for use by the Government of North Korea or by the Workers' Party of Korea;

(D) Directly or indirectly, sells or transfers a significant number of vessels to North Korea, except as specifically approved by the United Nations Security Council;

(E) Engages in a significant activity to charter, insure, register, facilitate the registration of, or maintain insurance or

a registration for, a vessel owned, controlled, commanded, or crewed by a North Korean person; or

(F) Contributes to and participates in:

(*1*) A significant act of bribery of an official of the Government of North Korea or any person acting for or on behalf of that official;

(*2*) The misappropriation, theft, or embezzlement of a significant amount of public funds by, or for the benefit of, an official of the Government of North Korea or any person acting for or on behalf of that official; or

(*3*) The use of any proceeds of any activity described in paragraph (a)(3)(ix)(A) or (B) of this section; or

(x) *Section 201B of NKSPEA, as amended.* Any foreign financial institution that the Secretary of the Treasury determines, in consultation with the Secretary of State, knowingly, on or after April 18, 2020, provides significant financial services to any person designated for the imposition of sanctions with respect to North Korea described in paragraphs (a)(3)(vii) through (ix) of this section and under an applicable Executive order (as defined in NKSPEA, as amended) or an applicable United Nations Security Council resolution (as defined in NKSPEA, as amended), and with respect to which the Secretary of the Treasury has exercised the authority to block all property and interests in property.

Note 3 to paragraph (a)(3)(x): *See* § 510.210(c) for alternative sanctions that can be imposed on a foreign financial institution when the determination specified in paragraph (a)(3)(x) of this section is made.

Note 4 to paragraph (a): The names of persons listed in or designated or identified pursuant to E.O. 13551, E.O. 13687, E.O. 13722, or E.O. 13810 and whose property and interests in property are blocked pursuant to those orders and who are referenced in paragraph (a) of this section are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the following identifiers: for E.O. 13551: ''[DPRK];'' for E.O. 13687: ''[DPRK2];'' for E.O. 13722: ''[DPRK3];'' and for E.O. 13810: ''[DPRK4].'' The names of persons designated or identified pursuant to NKSPEA, as amended, will be incorporated into the SDN List with the identifier ''[DPRK–NKSPEA].'' Certain transactions with persons blocked pursuant to paragraph (a) of this section, or blocked pursuant to other parts of 31 CFR chapter V in connection with North Korea-related activities, may result in the imposition of secondary sanctions, and therefore such blocked persons' entries on the SDN List will also include the descriptive prefix text ''Secondary sanctions risk:'', followed by information about the applicable secondary sanctions authority. Pursuant to § 510.214, persons owned or controlled by a U.S. financial institution are subject to certain prohibitions under this part; as a result, the entries of persons blocked pursuant to paragraph (a) of this section, or blocked pursuant to other parts of 31 CFR chapter V in connection with North Korea-related activities, will also include the descriptive prefix text ''Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions:'', followed by information about the applicable sanctions authority. The SDN List is accessible through the following page on OFAC's website: *www.treasury.gov/sdn.* Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 510.411 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section. The property and interests in property of persons who meet the definition of the term Government of North Korea, as defined in § 510.311, are blocked pursuant to paragraph (a) of this section regardless of whether the names of such persons are published in the **Federal Register** or incorporated into the SDN List.

■ 3. Amend § 510.210 as follows:

■ a. In the heading of paragraph (b), add ''prohibited by Executive Order 13810'' after the word ''institutions''.

■ b. Remove Note 1 to Paragraph (b).

■ c. Redesignate paragraphs (c) and (d) as paragraphs (d) and (e).

■ d. Add new paragraph (c).

■ e. In newly redesignated paragraph (d) introductory text, add ''or (c)'' after the words ''paragraph (b)''.

■ f. Add Note 1 to § 510.210.

The additions read as follows:

§ 510.210 Prohibitions or strict conditions with respect to correspondent or payable-through accounts or blocking of certain foreign financial institutions identified by the Secretary of the Treasury.

* * * * *

(c) *Sanctionable activity by foreign financial institutions prohibited by NKSPEA, as amended.* The Secretary of the Treasury, in consultation with the Secretary of State, may determine that a foreign financial institution has, on or after April 18, 2020, knowingly provided significant financial services to any person designated for the imposition of sanctions with respect to North Korea described in § 510.201(a)(3)(vii) through (ix) and under an applicable Executive order (as defined in NKSPEA, as amended) or an applicable United Nations Security Council resolution (as defined in NKSPEA, as amended).

* * * * *

Note 1 to § 510.210: For information regarding persons blocked pursuant to this part, or another part of 31 CFR chapter V in connection with North Korea-related activities, including identifier information for entries on the SDN List, *see* Note 4 to § 510.201(a).

* * * * *

■ 4. Amend § 510.213 by adding paragraph (f) to read as follows:

§ 510.213 Exempt transactions.

* * * * *

(f) *Exemptions under the North Korea Sanctions and Policy Enhancement Act of 2016, as amended by the Countering America's Adversaries Through Sanctions Act and the National Defense Authorization Act for Fiscal Year 2020.* The prohibitions contained in §§ 510.201(a)(3)(vii) through (x), 510.210(c), and 510.214 do not apply to the following activities:

(1) Activities subject to the reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 3091 *et seq.*), or to any authorized intelligence activities of the United States.

(2) Any transaction necessary to comply with United States obligations under the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, or under the Convention on Consular Relations, done at Vienna April 24, 1963, and entered into force March 19, 1967, or under other international agreements.

(3) Any activities incidental to the POW/MIA accounting mission in North Korea, including activities by the Defense POW/MIA Accounting Agency and other governmental or nongovernmental organizations tasked with identifying or recovering the remains of members of the United States Armed Forces in North Korea.

■ 5. Add § 510.214 to read as follows:

§ 510.214 Prohibitions on persons owned or controlled by U.S. financial institutions.

Except as otherwise authorized pursuant to this part, any person that is owned or controlled by a U.S. financial institution and established or maintained outside the United States is prohibited from knowingly engaging in any transaction directly or indirectly with the Government of North Korea or any person designated for the imposition of sanctions with respect to North Korea described in § 510.201(a)(3)(vii) through (ix) and under an applicable Executive order (as defined in NKSPEA, as amended) or an applicable United Nations Security Council resolution (as defined in NKSPEA, as amended).

Note 1 to § 510.214: For information regarding persons blocked pursuant to this

part, or another part of 31 CFR chapter V in connection with North Korea-related activities, including identifier information for entries on the SDN List, *see* Note 4 to § 510.201(a).

Note 2 to § 510.214: A U.S. financial institution is subject to the civil penalties provided for in section 206(b) of the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) if any entity that it owns or controls violates, attempts to violate, conspires to violate, or causes a violation of the prohibitions set forth in this section. *See* § 510.701.

Subpart C—General Definitions

■ 6. Amend § 510.304 as follows:
■ a. In paragraph (a)(4), remove the period at the end of the paragraph and add in its place a semicolon.
■ b. In paragraph (a)(8), remove the word ''and'' after the semicolon.
■ c. In paragraph (a)(9), remove ''§ 510.210'' everywhere it appears and add in its place ''§ 510.210(b)'' and remove ''such prohibition, condition, or blocking.'' and add in its place ''such prohibition or condition; and''.
■ d. Add paragraph (a)(10).
■ e. In paragraph (b), add '', or a notice of the imposition of a prohibition or strict condition pursuant to § 510.210,'' after the words ''interests in property''.

The addition reads as follows:

§ 510.304 Effective date.

(a) * * *

(10) With respect to the prohibition set forth in § 510.210(c), April 18, 2020. The effective date of a prohibition or strict condition imposed pursuant to § 510.210(c) on the opening or maintaining of a correspondent account or a payable-through account in the United States by a U.S. financial institution for a particular foreign financial institution is the earlier of the date the U.S. financial institution receives actual or constructive notice of such prohibition or condition.

* * * * *

§ 510.306 [Amended]

■ 7. In § 510.306, remove ''§ 510.201(a)(3)(ii)(E), (a)(3)(iii)(D), (a)(3)(iv)(G), and (a)(3)(v)(E),'' and add in its place ''§ 510.201(a),''.

■ 8. Revise § 510.317 to read as follows:

§ 510.317 Luxury goods.

The term *luxury goods,* as used in § 510.201(a) includes those items listed in 15 CFR 746.4(b)(1) and supplement no. 1 to part 746, similar items, and items so designated under an applicable United Nations Security Council resolution (as defined by the North Korea Sanctions and Policy Enhancement Act of 2016, as amended by the Countering America's Adversaries Through Sanctions Act and the National Defense Authorization Act for Fiscal Year 2020), except as specifically approved by the United Nations Security Council for import, export, or reexport to or into North Korea.

§ 510.319 [Amended]

■ 9. In § 510.319(b), remove ''§ 510.201(a)(3)(v)'' and add in its place ''§ 510.201(a)''.

Subpart D—Interpretations

■ 10. Revise § 510.413 to read as follows:

§ 510.413 Significant activity or activities; significant transaction(s); significant financial service(s).

In determining, for purposes of §§ 510.201(a) and 510.210, whether an activity or activities, transaction(s), or financial service(s) are significant, the Secretary of the Treasury or the Secretary's designee may consider the totality of the facts and circumstances. As a general matter, the Department of the Treasury may consider some or all of the following factors:

(a) *Size, number, and frequency.* The size, number, and frequency of the activity or activities, transaction(s), or financial service(s) conducted or performed over a period of time, including whether the activity or activities, transaction(s), or financial service(s) are increasing or decreasing over time and the rate of increase or decrease.

(b) *Nature.* The nature of the activity or activities, transaction(s), or financial service(s), including the type, complexity, and commercial purpose of the activity or activities, transaction(s), or financial service(s).

(c) *Level of awareness; pattern of conduct.* (1) Whether the activity or activities, transaction(s), or financial service(s) are performed with the involvement or approval of management or only by clerical personnel; and

(2) Whether the activity or activities, transaction(s), or financial service(s) are part of a pattern of conduct or the result of a business development strategy.

(d) *Nexus.* The proximity between the foreign financial institution engaging in the activity or activities, transaction(s), or financial service(s) and North Korea or a person blocked pursuant to § 510.201, a person sanctioned pursuant to § 510.210, or trade with North Korea.

(e) *Impact.* The impact of the activity or activities, transaction(s), or financial service(s) on the relevant U.S. sanctions program objectives including:

(1) The economic or other benefit conferred or attempted to be conferred on North Korea or a person blocked pursuant to § 510.201, or sanctioned pursuant to § 510.210; and

(2) Whether and how the activity or activities, transaction(s), or financial service(s) contribute(s) to North Korea's nuclear and ballistic missile programs, commission of serious human rights abuses, use of funds generated through international trade to support its nuclear and missile programs and weapons proliferation, money laundering and other illicit activities, procurement of luxury goods, human rights violations, and violations of United Nations Security Council Resolutions.

(f) *Deceptive practices.* Whether the activity or activities, transaction(s), or financial service(s) involve(s) an attempt to obscure or conceal the actual parties or true nature of the activity or activities, transaction(s), or financial service(s) or to evade sanctions.

(g) *Other relevant factors.* Such other factors that the Department of the Treasury deems relevant on a case-by-case basis in determining the significance of an activity or activities, transaction(s), or financial service(s).

Subpart H—Procedures

■ 11. Revise § 510.802 to read as follows:

§ 510.802 Delegation of certain authorities of the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13466 of June 26, 2008, Executive Order 13551 of August 30, 2010, Executive Order 13570 of April 18, 2011, Executive Order 13687 of January 2, 2015, Executive Order 13722 of March 15, 2016, Executive Order 13810 of September 20, 2017, and any further Executive orders relating to the national emergency declared in Executive Order 13466 of June 26, 2008, and any action that the Secretary of the Treasury is authorized to take pursuant to Presidential Memorandum of May 18, 2016: Delegation of Certain Functions and Authorities under the North Korea Policy Enhancement Act of 2016, Presidential Memorandum of September 29, 2017: Delegation of Certain Functions and Authorities under the Countering America's Adversaries Through Sanctions Act of 2017, the Ukraine Freedom Support Act of 2014, and the Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014, and Presidential Memorandum of February 21, 2020: Delegation of Certain Functions and Authorities under the

National Defense Authorization Act for Fiscal Year 2020, may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Dated: April 6, 2020.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2020–07497 Filed 4–9–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2020–0103]

RIN 1625–AA00

Safety Zone; Ohio River, Troy, IN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zone for all navigable waters of the Ohio River from mile marker (MM) 731.0 to MM 734.0. This action is necessary to provide for the safety of life on these navigable waters near Troy, IN, during a wire-crossing event. Entry into, transiting through, or anchoring within this zone is prohibited unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

DATES: This rule is effective from 7 a.m. on April 14, 2020, through 6 p.m. on April 23, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2020–0103 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST3 Riley Jackson, Waterways Department Sector Ohio Valley, U.S. Coast Guard; telephone 502–779–5347, email *SECOHV-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On July 22, 2019, the Coast Guard was notified of a wire crossing event that will take place on the Ohio River, between Mile Marker (MM) 731.0 & 734.0 from 7 a.m. through 6 p.m. each day from April 14, 2020, through April 23, 2020. The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the wire crossing would be a safety concern for anyone within a three mile radius of the construction area. In response, on February 25, 2020, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zones; Coast Guard Sector Ohio Valley Wire Crossing (85 FR 10640). The Coast Guard invited comments on our proposed regulatory action related to this wire crossing. During the comment period that ended March 26, 2020 no comments were received.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is necessary to respond to the potential safety hazards associated with the wire crossing.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Ohio Valley (COTP) has determined that potential hazards associated with the wire crossing occuring on April 14, 2020 through April 23, 2020, will be a safety concern for anyone near the construction zone. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, no comments were received on NPRM published February 25, 2020. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 7 a.m. to 6 p.m. each day, April 14, 2020 through April 23, 2020. The temporary safety zone would cover all navigable waters on the Ohio River extending from MM 731.0 to MM 734.0. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 7 a.m. to 6 p.m. wire crossing. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the temporary safety zone. The temporary safety zone would only be in effect for 11 hours each day over ten days and limit access to a three-mile stretch of the Ohio River. The Coast Guard expects minimum adverse impact to mariners. Also, mariners would be permitted to request authorization from the COTP or a designated representative to transit the temporary safety zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

economic impact on any vessel owner or operator.

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

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

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting 11 hours each day over 10 days, which would prohibit entry within a 3-mile stretch of the Ohio River. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We prepare a preliminary REC for these types of field regulations because the DHS Instruction Manual (and U.S. Coast Guard Environmental Planning Implementing Procedures) direct that a REC be prepared for these specified field regulations when certain conditions apply—see L59(a), L60(a), and L60(d).

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0103 to read as follows:

§ 165.T08–0103 Safety Zone; Ohio River, Troy, IN.

(a) *Location.* The following area is a temporary safety zone: All navigable waters of the Ohio River between MM 731.0 to MM 734.0 in Troy, IN.

(b) *Effective period.* This temporary safety zone will be in effect from April 14, 2020 through April 23, 2020.

(b) *Period of enforcement.* This temporary safety zone will be enforced from 7 a.m. through 6 p.m. each day from April 14, 2020, through April 23, 2020.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative. Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM radio channel 16 or phone at 1–800–253–7465.

(2) Persons and vessels permitted to enter this safety zone must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or a designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners and the Local Notice to Mariners of the enforcement period for the temporary safety zone as well as any changes in the planned schedule.

Dated: April 3, 2020.

A.M. Beach,

Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2020–07425 Filed 4–9–20; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2020–0029; FRL–10007–63–Region 1]

Air Plan Approval; New Hampshire; Approval of Single Source Order; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the February 14, 2020 direct final rule approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. New Hampshire's SIP revision established an Order reducing emissions of volatile organic chemicals from PSI Molded Plastics. This action is being taken in accordance with the Clean Air Act.

DATES: The direct final rule published at 85 FR 8408 on February 14, 2020 is withdrawn effective April 10, 2020.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Environmental Engineer, Air and Radiation Division (Mail Code 05–2), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts 02109–3912; (617) 918–1046. *mcconnell.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: In the direct final rule, EPA stated that if adverse comments were submitted by March 16, 2020, the rule would be withdrawn and not take effect. EPA received an adverse comment prior to the close of the comment period and, therefore, is withdrawing the direct final rule. EPA will address the comment in a subsequent final action based upon the proposed rule also published on February 14, 2020 (85 FR 8520). EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 30, 2020.

Dennis Deziel,

Regional Administrator, EPA Region 1.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Accordingly, the amendments to 40 CFR 52.1520 published on February 14, 2020 (85 FR 8408), are withdrawn effective April 10, 2020.

[FR Doc. 2020–06994 Filed 4–9–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2018–0634; FRL–10007–66–Region 5]

Air Plan Approval; Indiana; Revisions to NO_X SIP Call and CAIR Rules; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of adverse comments, the Environmental Protection Agency (EPA) is withdrawing the February 21, 2020, direct final rule approving a request from the Indiana Department of Environmental Management (IDEM) to revise the Indiana State Implementation Plan (SIP).

DATES: The direct final rule published at 85 FR 10064 on February 21, 2020 is withdrawn as of April 10, 2020.

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

SUPPLEMENTARY INFORMATION: On February 21, 2020 at 85 FR 10064 the EPA approved a request from the Indiana Department of Environmental Management (IDEM) to revise the Indiana State Implementation Plan (SIP) to incorporate the following: A new rule concerning nitrogen oxide (NO_X) emissions for the ozone season from Electric Generating Units (EGUs) and large non-EGUs; revisions concerning NO_X emission rate limits for specific source categories; the repeal of the NO_X Budget Trading Program; and the repeal of the Clean Air Interstate Rule (CAIR) NO_X ozone season trading program. The State of Indiana submitted this revision as a modification to the SIP on August 27, 2018. In the direct final rule, EPA stated that if adverse comments were submitted by March 23, 2020, the rule would be withdrawn and not take effect. On March 23, 2020, EPA received adverse comments, and, therefore, is withdrawing the direct final rule. EPA will address the comments in a subsequent final action based upon the proposed action also published on February 21, 2020 (85 FR 10127). EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

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

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

Dated: April 1, 2020.

Kurt Thiede,

Regional Administrator, Region 5.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ Accordingly, the amendment to 40 CFR 52.770 published in the **Federal Register** on February 21, 2020 (85 FR 10064) on page 10070 is withdrawn as of April 10, 2020.

[FR Doc. 2020–07250 Filed 4–9–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2019–0140; FRL–10006–29–Region 8]

Approval and Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standards; Colorado and North Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action on Colorado and North Dakota's Clean Air Act (CAA) state implementation plan (SIP) submissions with respect to infrastructure requirements for the 2015 ozone National Ambient Air Quality Standards (NAAQS). Specifically, the EPA is approving Colorado's September 17, 2018, infrastructure SIP in full, and approving North Dakota's November 6, 2018 infrastructure SIP in part (and disapproving in part). We are also approving a portion of North Dakota's May 2, 2019, submission of Chapter 33.1–15–15, the air pollution control rules of the State of North Dakota, that updates the date of incorporation by reference (IBR) of Federal rules.

DATES: This rule is effective on May 11, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2019–0140 All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the persons identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Amrita Singh, (303) 312–6103, *singh.amrita@epa.gov;* or Clayton Bean, (303) 312–6143, *bean.clayton@epa.gov.* Mail can be directed to the Air and Radiation Division, U.S. EPA, Region 8, Mail-code 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado, 80202–1129.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' means the EPA.

I. Background

On March 12, 2008, the EPA promulgated a new NAAQS for ozone, revising the levels of primary and secondary 8-hour ozone standards from 0.08 parts per million (ppm) to 0.075 ppm (73 FR 16436). More recently, on October 1, 2015, the EPA promulgated and revised the NAAQS for ozone, further strengthening the primary and secondary 8-hour standards to 0.070 ppm (80 FR 65292). The October 1, 2015 standards are known as the 2015 ozone NAAQS.

Section 110(a)(1) of the CAA directs each state to make an infrastructure SIP submission to the EPA within 3 years of promulgation of a new or revised NAAQS. Infrastructure requirements for SIPs are provided in section 110(a)(1) and (2) of the CAA. Section 110(a)(2) lists the specific infrastructure elements that a SIP must contain or satisfy. The elements that are the subject of the action are described in detail in our notice of proposed rulemaking (NPRM) published on July 29, 2019 (84 FR 36516).

II. Response to Comments

Comments on our NPRM were due on or before August 28, 2019. The EPA received two substantive comments on the NPRM. The first comment, pertaining to the Colorado portion of the NPRM, was submitted by the Center for Biological Diversity (CBD); the second comment, pertaining to the North Dakota portion of the NPRM, was submitted by the Dakota Resource Council (DRC). The comments are summarized, and the EPA responds to the comments in the following paragraphs.

Colorado Comment and Response

Comment: Commenter asserts that Colorado's Air Quality Control Commission (AQCC) did not adequately consider its comments before voting to approve Colorado's 2015 ozone infrastructure SIP for submission to the EPA. The commenter states that the AQCC admitted on the record at the public hearing that it had not reviewed its comment, including the supporting exhibits that the commenter had submitted prior to the public hearing and that Colorado's public comment period was not adequate. The commenter maintains that it is arbitrary and contrary to the public comment requirement for a state to grant an opportunity for public comment, but then admit that it did not review the submissions. The commenter acknowledges that the Colorado Air Pollution Control Division (APCD) provided verbal responses to their comments during the hearing, but characterizes these remarks as ''off the cuff'' statements, which were insufficient because they were not made by the decision-maker itself—the AQCC—and because the comments could only be addressed by performing new air quality modeling.[1]

Response: As noted, the Colorado 2015 ozone infrastructure SIP was submitted to the EPA on September 17, 2018, following a public hearing held by the State on August 16, 2018. Subsequently, on September 17, 2019, Colorado supplemented its submission and transmitted CBD's original comment and exhibits to the EPA (available in the docket to this action).

After reviewing the comment, exhibits, and audio file of the AQCC hearing, the EPA concludes that CBD's comment fails to demonstrate that the State's public comment period was not adequate. On the date of the hearing, CBD sent an email to the State, commenting, in relevant part, ''Attached are two papers I intend to discuss in my comments today on the proposed good neighbor SIP for the 2015 ozone NAAQS.'' The email contained two exhibits: An article titled ''Unexpected slowdown of US pollutant emission reduction in the past decade'' and an article titled ''Agriculture is a major source of NO_X pollution in California.'' At the hearing, CBD asserted that the AQCC must consider the two reports. The first report, according to CBD, ''finds that the reductions of NO_X''—an ozone precursor—''are becoming much slower than what was predicted.'' Thus, CBD concludes, the AQCC must ''take that into account.'' The second report concerns NO_X emissions from agricultural fertilizer in California. While CBD acknowledges that the report addresses California, CBD claims the AQCC must determine whether agricultural emissions are adequately accounted for ''in all relevant states.''

The commenter had the opportunity, at the public hearing, to explain the significance of the documents it submitted to support its oral comments and, the commenter did so. The audio record of the hearing indicates that a commissioner of the AQCC stated that because the commenter had submitted the documents shortly before the hearing, the AQCC had not had a chance to look at them. Nevertheless, a commissioner of the AQCC invited a response from ''staff'' to the issues raised by the commenter at the hearing. In response, a representative from the APCD stated, in part, that its interstate transport SIP submission is not designed to address other states' contributions to Colorado's nonattainment areas. A second state representative explained that Colorado's ''highest value is at 0.33 [ppb of ozone?], which is less than half of the value that is deemed significant'' and there would need to be a ''dramatic change'' to show that Colorado was significantly contributing to another state. These statements indicate that the State did consider the commenters' concerns at the public hearing, even if the State disagreed with the commenter and the relevance of the submitted documents.

CAA section 110(a) requires that each state provide ''reasonable notice and public hearing'' in connection with SIP submissions. The EPA's regulations further require, in part, that states provide notice and the opportunity to submit written comments. 40 CFR 51.102. Under the specific circumstances, here, although Colorado's response to the comment was not robust, the commenter has not demonstrated that Colorado's public hearing was not adequate, nor that Colorado had failed to provide an

[1] CBD provided supporting material to its written comment in the form of an audio file, which was delivered to the EPA Region 8 offices in Denver, CO. The *regulations.gov* site does not support the upload of audio files into the docket, however, the audio file is available for public inspection per our instructions in the **ADDRESSES** section of the preamble.

opportunity to submit comments. Despite being provided the opportunity to explain the significance of the submitted documents (either orally or in writing), the commenter's remarks about the significance of the documents were brief and general.[2] The AQCC did not ignore the commenter, but provided the commenter with an opportunity to explain concerns based on the submitted documents, apparently attended to that explanation, and invited (and received) input from APCD staff concerning the material submitted by the commenter. The commenter's suggestion that the remarks by APCD staff were speculative and meaningless and that it was necessary for Colorado to re-run modeling based on the submitted documents is not adequately supported.[3] Under the circumstances, including the commenter's very limited explanation concerning the significance of the documents submitted at the hearing, the input from APCD staff at the hearing, and the apparent nature of the documents (including that they were prepared in other contexts and not directly germane to the SIP submission at issue), Colorado not conducting additional photochemical grid modeling based on a general request to take the reports ''into account'' was reasonable. Given the lack of specificity in CBD's comments and with respect to the significance of the submitted documents, the agency does not agree that the public comment opportunity provided by Colorado was not adequate. It is a commenter's responsibility to make assertions with reasonable specificity during the public comment period.

Comment: Commenter asserts that the EPA must disapprove the CAA section 110(a)(2)(D)(i)(I) (interstate transport prongs 1 and 2) portion of Colorado's SIP for the 2015 ozone NAAQS because the proposed approval relied on the EPA's source-apportionment modeling for the year 2023 that was released with the EPA's March 2018 Memo.[4] The commenter states that this modeling is not reliable because the ''EPA is actively working to undo a number of major rules that underpin the 2023 modeling results.'' The commenter specifically cites the EPA's proposed repeal of the ''Glider Rule'' establishing emission requirements for glider vehicles, glider engines, and glider kits;[5] the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) proposed repeal of the Corporate Average Fuel Economy (CAFE) standards for light-duty vehicles and the EPA's simultaneous proposed repeal of vehicle Greenhouse Gas (GHG) standards;[6] and the proposed withdrawal the Control Techniques Guidelines (CTG) for the oil and gas industry.[7] The commenter also cites the repeal of the Clean Power Plan and its replacement with the ''more-polluting'' Affordable Clean Energy (ACE) rule. The commenter states that all of these actions ''erode the accuracy of EPA's 2023 modeling projections and further demonstrates the arbitrariness of EPA's reliance on that modeling to approve Colorado's Good Neighbor provision.'' The commenter asserts that reliance on the modeling is arbitrary with regard to both steps 1 and 2 of the EPA's analysis because it underestimates values at downwind receptors as well as Colorado's contributions to those receptors.

The commenter also states that the EPA's 2023 modeling projections failed to account for non-air quality regulations that had been rolled back, stating without reference ''both the coal combustion waste and the steam electric effluent limitation guidance rules'' and ''state level bailouts for dirty sources of pollution, like in Ohio.'' The commenter states that ''these rollbacks are designed to make dirty forms of energy more economic so that they are dispatched more, which results in more pollution.''

Response: The EPA disagrees with the commenter that its 2023 modeling projections are unreliable because of potential changes to other regulations. The EPA first notes that the Agency has not finalized proposed regulatory changes to the Glider Rule or the oil and gas CTG. The EPA's normal practice is to only include changes in emissions from final regulatory actions in its modeling because, until such rules are finalized, any potential changes in NO_X or VOC emissions are speculative.

The EPA did finalize a portion of the revisions to the CAFE standards for light duty vehicles, specifically the withdrawal of the waiver the agency had previously provided to California for its GHG and Zero Emissions Vehicle programs under section 209 of the CAA.[8] This final action does not have any impact on Colorado's modeled 2023 emissions. The model year 2017–2025 GHG regulations for cars and light trucks were projected to yield small but measurable criteria and toxic emissions reductions from vehicles. Because the vehicles affected by the 2017–2025 GHG standards would still need to meet applicable criteria pollutant emissions standards (*e.g.,* the Tier 3 emissions standards; 79 FR 23414), the regulatory impact analysis that accompanied the proposed revision to the GHG standards estimated a very limited impact on criteria and toxic pollutant emissions (increases in upstream emissions[9] and decreases in tailpipe emissions). Moreover, the proposed SAFE Vehicles Rule specifically notes that none of the regulatory alternatives considered ''would noticeably impact net emissions of smog-forming or other 'criteria' or toxic air pollutants.'' 83 FR 42996. Although on September 19, 2019, the EPA signed a final rule withdrawing a waiver for the State of California's GHG and zero emissions vehicle programs under CAA section 209, the EPA has not yet acted on the regulatory alternatives identified in the proposed SAFE Vehicles Rule.[10] In general, the mobile source and non-EGU emissions inventories do not reflect changes in emissions resulting from rulemakings finalized in calendar year 2016 or later, nor do they reflect any rules proposed but not yet finalized since 2016, as only

[2] It is worth noting that the commenter, in submitting comments in response to the NPRM, did not submit to the EPA the papers it had tendered to the AQCC and it made only passing reference to exhibits it had submitted to the AQCC. The commenter made no attempt to meaningfully discuss the exhibits or clearly explain the significance of the material.

[3] The commenter ''cannot undermine'' a model simply by ''pointing to variable not taken into account that might conceivably have pulled the analysis's sting.'' *Appalachian Power* v. *EPA,* 135 F.3d 791, 805 (D.C. Cir. 1998). CBD must show how that failure ''would have a significant effect'' on the outcome. *Id.*

[4] *See* ''Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I),'' (Mar. 27, 2018), available in the docket for this action or at *https://www.epa.gov/interstate-air-pollution-transport/interstate-airpollution-transport-memos-and-notices.*

[5] *See* ''Repeal of Emission Requirements for Glider Vehicles, Glider Engines, and Glider Kits'' 82 FR 53442 (Nov. 16, 2017).

[6] *See* ''The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks,'' 83 FR 42986 (Aug. 24, 2018).

See ''2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards,'' 77 FR 62624, 62899–900 (Oct. 15, 2012).

[7] *See* ''Notice of Proposed Withdrawal of the Control Techniques Guidelines for the Oil and Natural Gas Industry,'' 83 FR 10478 (Mar. 9, 2018).

[8] *See* ''The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program,'' 84 FR 51310 (Sep. 27, 2019).

[9] In this context, ''upstream emissions'' refer to the estimated emissions attributed to the extraction and transportation of crude oil, refining of crude oil, and distribution and storage of finished gasoline. *See* the NPRM for ''The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program,'' at 83 FR 42986, August 24, 2018.

[10] *See* prepublication version of The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program, Final Rule (signed September 19, 2019).

finalized rules are reflected in modeling inventories.

Further, the commenter has not demonstrated that the potential changes to nationally applicable rules noted by the commenter might reasonably be expected to impact Colorado's modeled contributions to projected downwind nonattainment and maintenance receptors, to the degree that Colorado sources might contribute significantly to nonattainment or interfere with maintenance at any of these receptors. In the 2011 Cross-State Air Pollution Rule (CSAPR) and the 2016 CSAPR Update, the EPA used a threshold of one percent of the NAAQS (0.7 ppb of ozone) to determine whether a given upwind state was ''linked'' at step 2 of the four-step framework and would therefore contribute to downwind nonattainment and maintenance sites identified in step 1. If a state's impact did not equal or exceed the one percent threshold, the upwind state was not ''linked'' to a downwind air quality problem, and on this basis the EPA concluded the state will not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in the downwind states.

As stated in the NPRM, the EPA's updated 2023 modeling, discussed in the March 2018 Memo, indicates that Colorado's largest impacts on any potential downwind nonattainment and maintenance receptor in the United States are 0.33 ppb and 0.27 ppb, respectively. These values are less than half of 0.70 ppb, or the value equivalent to one percent of the 2015 ozone NAAQS.[11] The commenter has not provided any information to demonstrate how ozone precursor emissions from sources located in Colorado might be expected to increase in such a way as to cause Colorado's projected impact to approach a 0.70 ppb contribution at any downwind receptor. Therefore, the EPA disagrees with the commenter that the EPA's 2023 modeling projections cannot be relied upon to conclude that emissions from Colorado will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

The commenter also has not demonstrated that the potential changes to nationally applicable rules noted by the commenter might reasonably be expected to cause our 2023 modeling analysis to underestimate values at downwind receptors, and specifically to underestimate these values in such a way that would cause receptors to which Colorado contributes above 0.70 ppb to be considered nonattainment and/or maintenance in 2023. Table 1 below lists the downwind receptors in the 2023 modeling to which Colorado was projected to contribute above 0.70 ppb. As shown, none of these downwind receptors is projected to come near the nonattainment or maintenance level of 71.0 ppb. For this reason, even if downwind receptor 2023 projections were expected to increase (which we do not anticipate), such increases would be very unlikely to convert these receptors to nonattainment or maintenance for the 2015 ozone NAAQS.

TABLE 1—DOWNWIND STATE RECEPTORS WITH COLORADO CONTRIBUTIONS ABOVE 0.70 PPB

Site ID	State	2023 avg DV	2023 max DV	2023 CO contribution
560210100	Wyoming	62.4	62.4	7.99
350451005	New Mexico	55.3	57.0	2.04
350450009	New Mexico	56.7	59.0	1.24
460930001	South Dakota	52.0	53.3	1.13
350450018	New Mexico	62.0	62.0	1.00
560050123	Wyoming	59.3	60.5	0.80
400159008	Oklahoma	61.2	63.1	0.71
201730010	Kansas	61.9	63.2	0.70

Regarding the commenter's assertion that the EPA's 2023 modeling projections failed to account for non-air quality related ''rules'' and ''bailouts,'' [12] the EPA finds that the commenter has failed to provide any data or other information to show how these actions ''would have a significant effect'' on the EPA's modeling results.[13] Based on this particular comment's lack of both context and information, the EPA finds that the comment does not present evidence that the EPA's 2023 modeling projections are not a sufficient basis for the EPA to conclude that Colorado does not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in the downwind states.

Comment: Commenter asserts that the EPA's reliance on the 2023 modeling projections from the March 2018 Memo was inappropriate because the Marginal attainment date for the 2015 ozone NAAQS falls before 2023, and ''most of the downwind areas are marginal nonattainment areas.'' The commenter explains that the EPA's use of the attainment date for Moderate areas is contrary to the good neighbor provision of section 110(a)(2)(D)(i)(I), as well as the CAA requirements for expeditious attainment of the NAAQS. Thus, the commenter concludes that the EPA must use a date in its future year modeling analysis no later than the attainment date for marginal nonattainment areas, which would both increase the number of nonattainment and maintenance receptors and increase Colorado's contribution to those receptors.

Response: The EPA disagrees with the commenter that it is inappropriate to rely on the EPA's modeling from the March 2018 Memo because our 2023 projections are aligned with the Moderate rather than Marginal attainment date for the 2015 ozone NAAQS. The EPA further notes that, even if it were appropriate to evaluate downwind air quality and upwind contributions consistent with the

[11] Because none of Colorado's impacts to nonattainment or maintenance receptors exceed 0.70 ppb, they necessarily also do not exceed the 1 ppb contribution threshold discussed in the EPA's memorandum ''Analysis of Contribution Thresholds for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards,'' (Aug. 31, 2018).

[12] As noted, the commenter did not provide references for any of these actions (other than an oblique reference to ''like in Ohio''), and the EPA therefore lacks the context necessary to accurately describe them.

[13] *See Appalachian Power* v. *EPA,* 135 F.3d at 805: ''The party challenging the use'' of, in this case, an air quality modeling analysis, ''must identify clearly major variables the omission of which renders the analysis suspect,'' including ''data to support the assertion that additional factors . . . would have a significant effect'' on the modeling results.

Marginal area attainment date of 2021, Colorado's impacts on these areas in 2021 would be similar to those projected in 2023, as detailed further below. EPA modeling in support of the CSAPR Update Rule for the 2008 ozone NAAQS projected that Colorado's largest impact to any downwind nonattainment or maintenance receptor in 2017 was 0.31 ppb.[14] As noted, in the March 2018 Memo we projected a maximum impact of 0.33 ppb to any downwind nonattainment or maintenance receptor in 2023. Both of these maximum impacts were projected at the same receptor in Tarrant County, Texas. To estimate Colorado's maximum contribution to a potential nonattainment or maintenance receptor in 2021, the EPA used a linear interpolation which calculated the average contribution from Colorado to the Tarrant County receptor using the underlying daily 2023 contribution data for the same days that were used to calculate the average contribution for 2017. Specifically, the 2017 contribution analysis included 5 days and we used the daily contributions from these same 5 days to calculate the Transport Future Year 2023 average contribution. Using this consistent methodology, the contribution from Colorado to the Tarrant County receptor in 2023 is 0.3135 ppb, virtually unchanged from the 0.3137 ppb contribution modeled in 2017. The EPA calculated the linear rate of decline for contribution from Colorado to the Tarrant County receptor to calculate a 2021 contribution of 0.3136 ppb.[15] Based on this analysis, the EPA finds it reasonable to conclude that Colorado impacts to downwind nonattainment and maintenance receptors in any years between 2017 and 2023, including 2021, would also be projected to be well below 0.70 ppb.

The EPA also believes that 2023 is an appropriate year for analysis of good neighbor obligations for the 2015 ozone NAAQS because the 2023 ozone season is the last relevant ozone season during which achieved emissions reductions in linked upwind states could assist downwind states with meeting the August 2, 2024 Moderate area attainment date for the 2015 ozone NAAQS. The EPA recognizes that the attainment date for nonattainment areas classified as Marginal for the 2015 ozone NAAQS is August 2, 2021, which currently applies in several nonattainment areas downwind of Colorado evaluated in the EPA's modeling.[16] The EPA is further cognizant of the D.C. Circuit's September 13, 2019 decision in *Wisconsin* v. *EPA.* 938 F.3d 303. In this ruling, the court addressed legal challenges to the CSAPR Update, in which the EPA partially addressed certain upwind states' prongs 1 and 2 obligations for the 2008 ozone NAAQS. While the court generally upheld the rule as to most of the challenges raised in the litigation, the court remanded the CSAPR Update to the extent it failed to require upwind states to eliminate their significant contributions in accordance with the attainment dates found in CAA section 181 by which downwind states must come into compliance with the NAAQS. *Id.* at 313. However, as explained below, the EPA does not believe that either the statute or applicable case law requires the evaluation of good neighbor obligations in a future year aligned with the attainment date for nonattainment areas classified as Marginal.

The good neighbor provision instructs the EPA and states to apply its requirements ''consistent with the provisions of'' title I of the CAA. CAA section 110(a)(2)(D)(i); *see also North Carolina* v. *EPA,* 531 F.3d 896, 911–12 (D.C. Cir. 2008). This consistency instruction follows the requirement that plans ''contain adequate provisions prohibiting'' certain emissions in the good neighbor provision. As the D.C. Circuit held in *North Carolina,* and more recently in *Wisconsin,* the good neighbor provision must be applied in a manner consistent with the designation and planning requirements in title I that apply in downwind states and, in particular, the timeframe within which downwind states are required to implement specific emissions control measures in nonattainment areas and submit plans demonstrating how those areas will attain, relative to the applicable attainment dates. *See North Carolina,* 896 F.3d at 912 (holding that the good neighbor provision's reference to title I requires consideration of both procedural and substantive provisions in title I); *Wisconsin,* 938 F.3d at 313–18.

While the EPA recognizes, as the court held in *North Carolina* and *Wisconsin,* that upwind emissions-reduction obligations therefore must generally be aligned with downwind receptors' attainment dates, unique features of the statutory requirements associated with the Marginal area planning requirements and attainment date under CAA section 182 lead the EPA to conclude that it is more reasonable and appropriate to require the alignment of upwind good neighbor obligations with later attainment dates applicable for Moderate or higher classifications. Under the CAA, states with areas designated nonattainment are generally required to submit, as part of their state implementation plan, an ''attainment demonstration'' that shows, usually through air quality modeling, how an area will attain the NAAQS by the applicable attainment date. *See* CAA section 172(c)(1).[17] Such plans must also include, among other things, the adoption of all ''reasonably available'' control measures on existing sources, a demonstration of ''reasonable further progress'' toward attainment, and contingency measures, which are specific controls that will take effect if the area fails to attain by its attainment date or fails to make reasonable further progress toward attainment. *See, e.g.,* CAA section 172(c)(1); 172(c)(2); 172(c)(9). Ozone nonattainment areas classified as Marginal are excepted from these general requirements under the CAA—unlike other areas designated nonattainment under the Act (including for other NAAQS pollutants), Marginal ozone nonattainment areas are specifically exempt from submitting an attainment demonstration and are not required to implement *any* specific emissions controls at existing sources in order to meet the planning requirements applicable to such areas. *See* CAA section 182(a) (''The requirements of this subsection shall apply in lieu of any requirement that the State submit a demonstration that the applicable implementation plan provides for attainment of the ozone standard by the applicable attainment date in any Marginal Area.'') [18] Marginal ozone

[14] *See* the EPA's ''Air Quality Modeling Technical Support Document for the Final Cross State Air Pollution Rule Update'' (August 2016), in the docket for this action.

[15] A spreadsheet with the calculations from this linear interpolation is included in the docket for this action.

[16] The Marginal area attainment date is not applicable for nonattainment areas already classified as Moderate or higher, such as the New York Metropolitan Area. For the status of all nonattainment areas under the 2015 ozone NAAQS, see U.S. EPA, 8-Hour Ozone (2015) Designated Area/State Information, *https://www3.epa.gov/airquality/greenbook/jbtc.html* (last updated Sept. 30, 2019).

[17] Part D of title I of the Clean Air Act provides the plan requirements for all nonattainment areas. Subpart 1, which includes section 172(c), applies to all nonattainment areas. Congress provided in subparts 2–5 additional requirements specific to the various NAAQS pollutants that nonattainment areas must meet.

[18] States with Marginal nonattainment areas are required to implement new source review permitting for new and modified sources, but the purpose of those requirements is to ensure that potential emissions increases do not interfere with progress towards attainment, as opposed to

Continued

nonattainment areas are also exempt from demonstrating reasonable further progress towards attainment and submitting contingency measures. *See* CAA section 182(a) (does not include a reasonable further progress requirement and specifically notes that ''Section [172(c)(9)] of this title (relating to contingency measures) shall not apply to Marginal Areas'').

Existing regulations—either local, state, or Federal—are typically a part of the reason why ''additional'' local controls are not needed to bring Marginal nonattainment areas into attainment. As described in the EPA's record for its final rule defining area classifications for the 2015 ozone NAAQS and establishing associated attainment dates, history has shown that the majority of areas classified as Marginal for prior ozone standards attained the respective standards by the Marginal area attainment date (*i.e.,* without being re-classified to a Moderate designation). 83 FR 10376. As part of a historical lookback, the EPA calculated that by the relevant attainment date for areas classified as Marginal, 85 percent of such areas attained the 1979 1-hour ozone NAAQS, and 64 percent attained the 2008 ozone NAAQS. *See* Response to Comments, section A.2.4.[19] Based on these historical data, the EPA expects that many areas classified Marginal for the 2015 ozone NAAQS will also attain by the relevant attainment date as a result of emissions reductions that are already expected to occur through implementation of existing local, state, and Federal emissions reduction programs. To the extent states have concerns about meeting their attainment date for a Marginal area, the CAA under section 181(b)(3) provides authority for them to voluntarily request a higher classification for individual areas, if needed.

Areas that are classified as Moderate typically have more pronounced air quality problems than Marginal areas or have been unable to attain the NAAQS under the minimal requirements that apply to Marginal areas. *See* CAA sections 181(a)(1) (classifying areas based on the degree of nonattainment relative to the NAAQS) and (b)(2) (providing for reclassification to the next highest designation upon failure to attain the standard by the attainment date). Thus, unlike Marginal areas, the statute explicitly requires a state with an ozone nonattainment area classified as Moderate or higher to develop an attainment plan demonstrating how the state will address the more significant air quality problem, which generally requires the application of various control measures to existing sources of emissions located in the nonattainment area. *See generally* CAA sections 172(c) and 182(b)–(e).

Given that downwind states are not required to demonstrate attainment by the attainment date or impose additional controls on existing sources in a Marginal nonattainment area, the EPA believes that it would be inconsistent to interpret the good neighbor provision as requiring the EPA to evaluate the necessity for upwind state emissions reductions based on air quality modeled in a future year aligned with the Marginal area attainment date. Rather, the EPA believes it is more appropriate and consistent with the nonattainment planning provisions in title I of the Act to evaluate downwind air quality and upwind state contributions, and, therefore, the necessity for upwind state emissions reductions, in a year aligned with an area classification in connection with which downwind states are also required to demonstrate attainment and implement controls on existing sources — *i.e.,* with the Moderate area attainment date, rather than the Marginal area date. With respect to the 2015 ozone NAAQS, the Moderate area attainment date will be in the summer of 2024, and the last full year of monitored ozone-season data that will inform attainment demonstrations is, therefore, 2023.

The EPA's interpretation of the good neighbor requirements in relation to the Marginal area attainment date is consistent with the *Wisconsin* opinion. For the reasons explained below, the court's holding does not contradict the EPA's view that 2023 is an appropriate analytic year in evaluating good neighbor SIPs for the 2015 ozone NAAQS. The court in *Wisconsin* was concerned that allowing upwind emission reductions to be implemented after the applicable attainment date would require downwind states to obtain more emissions reductions than the Act requires of them, to make up for the absence of sufficient emissions reductions from upwind states. *See* 938 F.3d at 316. As discussed previously, however, this equitable concern only arises for nonattainment areas classified as Moderate or higher for which downwind states are required by the CAA to develop attainment plans securing reductions from existing sources and demonstrating how such areas will attain by the attainment date. *See, e.g.,* CAA section 182(b)(1) & (2) (establishing ''reasonable further progress'' and ''reasonably available control technology'' requirements for Moderate nonattainment areas). Ozone nonattainment areas classified as Marginal are not required to meet these same planning requirements, and thus the equitable concerns raised by the *Wisconsin* court do not arise with respect to downwind areas subject to the Marginal area attainment date.

The distinction between planning obligations for Marginal nonattainment areas and higher classifications was not before the court in *Wisconsin.* Rather, the court was considering whether the EPA, in implementing its obligation to promulgate Federal implementation plans under CAA section 110(c), was required to fully resolve good neighbor obligations by the 2018 *Moderate* area attainment date for the 2008 ozone NAAQS. *See* 938 F.3d at 312–13. Although the court noted that petitioners had not ''forfeited'' an argument with respect to the Marginal area attainment date, *see id.* at 314, the court did not address whether its holding with respect to the 2018 Moderate area date would have applied with equal force to the Marginal area attainment date because that date had already passed. Thus, the court did not have the opportunity to consider these differential planning obligations in reaching its decision regarding the EPA's obligations relative to the then-applicable 2018 Moderate area attainment date because such considerations were not applicable to the case before the court.[20] For the reasons discussed here, the equitable concerns supporting the *Wisconsin* court's holding as to upwind state obligations relative to the Moderate area attainment date also support the EPA's interpretation of the good neighbor

reducing existing emissions. Moreover, the EPA acknowledges that states within ozone transport regions must implement certain emission control measures at existing sources in accordance with CAA section 184, but those requirements apply regardless of the applicable area designation or classification.

[19] Available at *https://www.regulations.gov/document?D=EPA-HQ-OAR-2016-0202-0122.*

[20] The D.C. Circuit, in a short judgment, subsequently vacated and remanded the EPA's action purporting to fully resolve good neighbor obligations for certain states for the 2008 ozone NAAQS, referred to as the CSAPR Close-Out, 83 FR 65878 (Dec. 21, 2018). *New York* v. *EPA,* No. 19–1019 (Oct. 1, 2019). That result necessarily followed from the *Wisconsin* decision, because as the EPA conceded, the Close-Out ''relied upon the same statutory interpretation of the Good Neighbor Provision'' rejected in *Wisconsin. Id.* slip op. at 3. In the Close-Out, the EPA had analyzed the year 2023, which was two years after the Serious area attainment date for the 2008 ozone NAAQS and not aligned with any attainment date for that NAAQS. *Id.* at 2. In *New York,* as in *Wisconsin,* the court was not faced with addressing specific issues associated with the unique planning requirements associated with the Marginal area attainment date.

provision relative to the Marginal area attainment date. Thus, the EPA concludes that its reliance on an evaluation of air quality in the 2023 analytical year for purposes of assessing good neighbor obligations with respect to the 2015 ozone NAAQS is based on a reasonable interpretation of the CAA and legal precedent.

Comment: Commenter asserts that the EPA must disapprove the SIP under CAA section 110(a)(2)(E) (Adequate resources and authority) because the State of Colorado lacks adequate legal authority to regulate emissions from agriculture sources. The commenter quotes Colorado Revised Statues 25–7–109(8)(a) to state that this provision prohibits Colorado from being able to protect visibility and air quality in Class 1 areas from agricultural sources. Furthermore, the commenter asserts that the EPA must disapprove the SIP under CAA sections 110(a)(2)(D) (interstate transport prong 4) and 110(a)(2)(J) (consultation with government officials, public notification, and PSD and visibility protection) because of visibility impairment caused by agricultural emissions. Finally, the commenter also calls on the EPA to disapprove the SIP under CAA section 110(a)(2)(A) (emissions limits and other control measures) by explaining the State is unable to maintain the NAAQS because Colorado lacks the authority to control emissions from agriculture and pesticides, ''even if such sources are not major stationary sources . . . .''

Response: Colorado's infrastructure SIP submission confirms that ''[t]here are no state or federal provisions prohibiting the implementation of any provision of the Colorado SIP.'' Specifically, Colorado cites to ''general authority to adopt the rules and regulations necessary to implement the SIP'' as ''set out in the Colorado Air Pollution Prevention and Control Act Section 25–7–105 of the Colorado Revised Statutes (C.R.S.),'' general authority to administer and enforce the program in 25–7–111, C.R.S, additional authority to regulate air pollution and implement provisions in the SIP in the Colorado Air Pollution Prevention and Control Act, Article 7 of title 25, and authority delegated under Sections 42–4–301 through 42–4–316, C.R.S. (concerning motor vehicle emissions) and 42–4–414, C.R.S. (concerning emissions from diesel-powered vehicles).

The statutory provision cited by commenter does not bar the State from carrying out its existing SIP; indeed, the provision *requires* regulation of agricultural, horticultural, or floricultural production, certain animal feeding operations, and pesticide application ''if they are 'major stationary sources', . . . or are required by Part C (prevention of significant deterioration), Part D (nonattainment), or Title V (minimum elements of a permit program) . . . .'' Whether Colorado will need additional emission limitations and other control measures for areas designated nonattainment for the 2015 ozone NAAQS will be reviewed and acted upon as part of the State's attainment plan under CAA title I part D through a separate process at a later time.

While the EPA recognizes the commenter's concern about the impact of agricultural and pesticide emissions, in the context of this rulemaking, the EPA does not find the State deficient in its ability to carry out its infrastructure SIP requirements.

CAA section 110(a)(2)(D)(i)(II) (interstate transport prong 4) generally requires a SIP to contain adequate provisions prohibiting emissions within the state from ''interfering with measures required to be in the applicable implementation plan for any other State under part C of this subchapter . . . to protect visibility.'' Under the 2013 Infrastructure SIP guidance,[21] a state's infrastructure SIP submission may satisfy prong 4 through confirmation that the state has a fully-approved regional haze SIP. The EPA approved Colorado's Regional Haze SIP for the first implementation period for regional haze on December 31, 2012 (77 FR 76871), which the State identified to demonstrate that Colorado does not interfere with visibility in any other state. The EPA subsequently approved an update to Colorado's Regional Haze SIP on July 5, 2018, meaning that the Colorado Regional Haze SIP for the first implementation period remains fully approved (83 FR 31332). Accordingly, this is a sufficient basis on which to approve the State's prong 4 submittal here.

With respect to CAA section 110(a)(2)(J) (consultation with government officials, public notification, and PSD and visibility protection), the EPA also disagrees with the commenter. Section 110(a)(2)(J) visibility requirements do not need to be addressed in this rulemaking because a state's requirements relating to visibility protection are not affected when the EPA establishes or revises a NAAQS. As the EPA noted in the 2013 Infrastructure SIP guidance, when the EPA establishes or revises a NAAQS, the visibility requirements under Part C of title I of the CAA do not change. There are no new visibility protection requirements under Part C as a result of the revised NAAQS. Accordingly, air agencies do not need to address the visibility sub-element of Element J in an infrastructure SIP submission.

The EPA recognizes the concern for meeting visibility requirements. However, Colorado has a fully approved regional haze SIP for the first implementation period, and the EPA and states, including Colorado, along with various stakeholders have been engaged in an ongoing process of developing SIPs for the second implementation period under the regional haze regulations, 40 CFR part 51, subpart P, which are due to the EPA by July 31, 2021.

Comment: Commenter asserts that the EPA must disapprove the SIP under CAA sections 110(a)(2)(E)(i) and 110(a)(2)(L) stating that in the NPRM, the EPA fails to provide analyses that prove Colorado's resources are adequate. Commenter believes Colorado lacks adequate funding because the State ''has missed the statutory deadline to make a final decision'' on renewal applications for ''dozens of Title V facilities'' (asserting that ''Colorado does not have the resources to hire enough title V permit writers.'' Moreover, commenter assumes Colorado lacks adequate resources to enforce its air program because the State ''has approximately 9 inspectors to inspect . . . 50,000 plus oil and gas wells.'' Commenter believes Colorado's ''Taxpayer Bill of Rights'' (TABOR) amendment operates as a legal impediment to the State's budget that impacts its ability to implement the SIP.

Response: The EPA disagrees with the commenter's conclusions concerning the adequacy of the Colorado infrastructure SIP with respect to both CAA sections 110(a)(2)(E)(i) and (L). As stated in the NPRM, CAA section 110(a)(2)(E)(i) requires that each SIP provides, in part, ''necessary assurances that the State . . . will have adequate personnel, funding, and authority under State . . . law to carry out such implementation plan'' and CAA section 110(a)(2)(L) requires that each state have a permit fee program (although the requirement is suspended when the EPA approves the state's title V fee program, which does not need to be approved into the SIP).

With respect to CAA section 110(a)(2)(E)(i), the EPA evaluates the submitting state's infrastructure SIP submission for evidence that the state has adequate resources. Element E does

[21] ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),'' Memorandum from Stephen D. Page, September 13, 2013.

not require an audit of resources or personnel. As stated in the NPRM for this action, Colorado's infrastructure SIP submission for the 2015 ozone NAQQS indicated that ''[t]he Divison has staff and annual budget to operate its six programs (Stationary Sources, Mobile Sources, Indoor Environment, Technical Services, Planning and Policy, Administrative Services).'' Further, the Division employed 176 people and had a budget of about $18 million for fiscal year 2018. Of the total budget, about 17 percent was derived from Federal grants, 30 percent from mobile source fees, 50 percent from stationary source fees, and 3 percent from other cash sources. These budget and staff levels have been consistent over the past number of years and over these years Colorado has been able to meet its statutory commitments, including submitting the required air quality data, attainment plans, and monitoring networks.[22]

Commenter expresses specific concerns that Colorado ''has approximately 9 inspectors to inspect its 50,000 plus oil and gas wells,'' and concludes from this that the State ''lacks the resources to adequately enforce its air program.'' In general, the EPA believes that questions about the specific number of inspectors needed in a given state involve the issue of enforcement discretion and are thus within the state's discretion, within reason. The EPA notes that it does not require physical inspection of every stationary source of emissions. The EPA's stationary source compliance monitoring guidance explains that states are encouraged to use a variety of techniques to determine compliance, including, for example, on-site compliance evaluations and off-site record reviews.[23] Furthermore, state choices such as focusing resources on and targeting inspections to larger sources (such as title V major stationary sources) are consistent with the EPA's inspection guidance, which calls for more frequent inspections of larger sources but does not specify an inspection frequency for smaller sources. And though commenter asserts that there are ''50,000 plus oil and gas wells'' in Colorado, commenter does not differentiate between smaller sources (or even inactive wells) and major stationary sources, which must be permitted in accordance with the CAA. Indeed, a recent report suggests that only 11,000 of those wells are ''permitted'' wells.[24] Because the report does not specify the type of permit that the State issued (*e.g.,* whether the permitted source is a major source or a minor source), in evaluation of this comment the EPA has reviewed the Colorado's title V operating permits database [25] and identified only one permit for an oil and gas production facility.[26] Although the State issued numerous permits (but fewer than 60) for compressor stations that may be located at or near a well-site, such sources may not necessitate a site-visit to assess compliance.[27] Accordingly, commenter's assertion does not, at this juncture, contravene Colorado's assurance that the State has adequate resources and personnel to carry out its SIP. Accordingly, the EPA concludes that Colorado's Infrastructure SIP submission provides the necessary assurances that the State has the staffing and resources needed to meet its SIP obligations in accordance with section 110(a)(2)(E) of the CAA.

Commenter's reliance on the alleged title V permit backlog and perceived shortage of inspectors are not determinative. While the agency agrees that permitting delays are problematic, such delays are not necessarily evidence of insufficient state resources that rise to the level of an inability to implement the requirements of a SIP. In addition, approved title V programs are not a component of a state's SIP and such programs, therefore, are not part of the requirements that states must address in the context of an Infrastructure SIP submission.

Commenter also fails to explain why Colorado's submission does not satisfy CAA section 110(a)(2)(L) and, indeed, fails to acknowledge that Colorado has an EPA-approved fee program under title V (see 65 FR 49919). To the extent commenter alleges that Colorado is not adequately administering and enforcing its title V program, the EPA's review and approval of an infrastructure SIP is not the appropriate time to raise those issues. Instead, CAA section 502(i) authorizes the Administrator to consider such allegations.

Lastly, commenter's general concern with respect to Colorado's constitutional amendment does not provide an adequate basis to disapprove Colorado's SIP with respect to CAA sections 110(a)(2)(E)(i) or 110(a)(2)(L). Commenter provides no explanation as to how the TABOR undermines Colorado's assurances that the State will have adequate personnel, funding, and authority to carry out its SIP or invalidates the EPA-approved fee program under title V.

Comment: Commenter asserts that the EPA must disapprove all of the PSD related infrastructure elements (*i.e.,* 110(a)(2)(C), (D)(i) (prong 3) and (J)) because of the State's ''90 day timing rule.'' The commenter explains that the rule allows major stationary sources to construct ''without a PSD or NSSR [*sic*] permit'' in violation of the CAA.

Response: Although commenter does not offer a citation to a ''90 day timing rule,'' the EPA believes commenter intended to refer to AQCC Regulation No. 3, Part A, Sec. II.D.1.lll (Exemptions from Air Pollutant Emission Notice Requirements: Oil and exploration and production operations). That rule requires owners or operators of oil and gas exploration and production operations to file an Air Pollution Emission Notice (APEN) no later than ninety days following the first day of production ''[i]f production will result in reportable emissions.'' Commenter presumably believes that because an APEN need not be filed until after production begins, this rule exempts major stationary sources from new source review permitting (*i.e.,* PSD or NNSR).

The EPA believes commenter may be misunderstanding AQCC regulations and, accordingly, disagrees with commenter's conclusion. AQCC Regulation 3, Part A, Sec. II addresses Colorado's APEN requirements. Under that program, ''no person shall allow emission of air pollutants from, or construction, modification or alteration of, any facility, process, or activity which constitutes a stationary source, except residential structures, from which air pollutants are, or are to be, emitted unless and until'' an APEN has been filed with the Division. *See* AQCC Regulation 3, Part A, Sec. II.A. Each APEN must specify the location at which the proposed emission will occur and provide certain details concerning the facility, process, or activity, including an estimate of the quantity

[22] *See, e.g.,* 76 FR 43906 (July 22, 2011) (EPA–R08–OAR–2009–0809–004 for FY2006); 78 FR 58186 (Sept. 23, 2013) (EPA–R08–OAR–0810–0002 for FY2009); 80 FR 50205 (Aug. 19, 2015) (EPA–R08–OAR–2012–0972–0002 for FY2011); 82 FR 39030 (Aug. 17, 2017) (EPA–R08–OAR–2013–0557–0004 for FY2012 and EPA–R08–OAR–2013–0557–0002 for FY2014).

[23] CAA Stationary Source Compliance Monitoring Strategy (October 4, 2016), *available at https://www.epa.gov/sites/production/files/2013-09/documents/cmspolicy.pdf.* The EPA's guidance even notes that some regulated facilities may not require an on-site visit to assess compliance, such as gas-fired compressor stations.

[24] *https://www.denverpost.com/2019/04/21/colorado-air-pollution-oil-gas-sites/.*

[25] *https://www.colorado.gov/pacific/cdphe/operating-permits-company-index.*

[26] *See* SandRidge Exploration and Production Company—Bighorn Pad, *https://drive.google.com/drive/folders/1YqoDMY5a0jSZaMOV8qBNPFh_32CLwQnv.*

[27] CAA Stationary Source Compliance Monitoring Strategy, at 6.

and composition of the expected emission, among other information. *Id.*

If a source is exempted from the filing of an APEN under Part A, such sources may also be exempted from the State's construction permit program under Part B. *See* AQCC Regulation 3, Part B, Sec. II.D.1.a. However, Colorado's Part B construction permit program is not the State's EPA-approved major source new source review program, which is found in AQCC Regulation 3, Part D. This may be the source of commenter's misunderstanding. AQCC Regulation 3, Part B is clear that ''[p]ermit exemptions taken under this section do not affect the applicability of any State or Federal regulations that are *otherwise applicable* to the source.'' *See* AQCC Regulation 3, Part B, Sec. II.D. Thus, otherwise applicable permitting requirements in Regulation 3, Part D are not affected by the exemptions in Part B.

Furthermore, AQCC Regulation 3, Part A, Sec. II.D.1 also expressly states that any source that is exempt from filing an APEN ''must nevertheless comply with all requirements that are otherwise applicable . . . including, but not limited to: Title V, Prevention of Significant Deterioration, nonattainment New Source Review, opacity limitations, odor limitations, particulate matter limitations and volatile organic compounds controls.'' Further, AQCC Regulation 3, Part D (Colorado's major stationary source new source review and PSD program) expressly states that ''[a]ny new major stationary source or major modification, to which the requirements of this Part D apply, shall not begin actual construction in a nonattainment, attainment, or unclassifiable area unless a permit has been issued containing all applicable state and federal requirements.'' AQCC Regulation 3, Part D, Sec. I.A.1. Accordingly, the EPA disagrees with commenter's allegation that the ''90-day timing rule'' allows major stationary sources to construct without a PSD or NNSR permit in violation of the CAA.

North Dakota Comment and Response

Comment: The DRC submitted a comment letter and supporting documentation to the EPA on August 28, 2019, in which the DRC raises concerns that North Dakota's SIP does not adequately regulate VOC emissions for upstream oil and gas industry operations, and therefore the State risks future ozone nonattainment status. Specifically, the DRC contends that the North Dakota infrastructure SIP submittal is deficient because oil and gas activities ''are *not* covered by North Dakota's minor source permitting program.'' The DRC asserts that while oil and gas production facilities are required to file registration notices, these sources are otherwise exempt from permitting. The DRC explains that upstream oil and gas facilities have a significant emissions impact (pointing to the EPA's 2014 National Emissions Inventory) and will continue to grow over the coming years. The DRC believes North Dakota has failed to aggregate emissions from production facilities because of a lack of personnel and funding (contrary to CAA section 110(a)(2)(E)). Accordingly, the DRC declares that the EPA has a mandatory duty to reject North Dakota's SIP and issue a SIP call for a revised plan for its deficiencies under section 110(a)(2)(C).

Response: The EPA recognizes that the DRC is concerned that North Dakota's minor NSR program exempts upstream oil and gas facilities from more rigorous permitting and believes North Dakota's SIP should include mandatory emission limits, monitoring, and recordkeeping for such sources. However, the EPA disagrees with the DRC's conclusion that the North Dakota infrastructure SIP submission for the 2015 ozone NAAQS is thereby deficient.

Section 110(a) of the CAA requires states to make SIP submissions to establish they already have, or are adding, the SIP infrastructure to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as the EPA may prescribe. Specifically, section 110(a)(1) provides the procedural and timing requirements for such SIPs (commonly referred to as infrastructure SIPs), and section 110(a)(2) lists specific elements that a state's infrastructure SIP must meet for a newly established or revised NAAQS. These requirements include basic SIP elements, such as requirements for monitoring, basic program requirements, and legal authority, that are designed to assure attainment and maintenance of the NAAQS. Consequently, the EPA considers action on infrastructure SIP submissions required by sections 110(a)(1) and (2) to be an exercise to assure that a state's SIP meets the basic structural requirements for the new or revised NAAQS.

For example, EPA's review of infrastructure SIP submissions with respect to the PSD program requirements in section 110(a)(2)(C), (D)(i)(II), and (J) focuses upon the structural PSD program requirements contained in part C and EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address construction and modification of major sources and all regulated NSR pollutants, including greenhouse gases, in accordance with the requirements of the EPA's PSD regulation at 40 CFR 51.166.

Similarly, section 110(a)(2)(C), includes, among other things, the requirement that states have a program to regulate construction of minor new sources, but the EPA's regulations provide states with more discretion than the EPA's PSD regulations as to which sources must be covered by such a program. Thus, to satisfy the sub-element for preconstruction regulation of the modification and construction of *minor* stationary sources and the *minor modification* of major stationary sources, an infrastructure SIP submission should identify the existing EPA-approved SIP provisions and/or include new provisions that govern the minor source pre-construction program that regulates emissions of the relevant NAAQS pollutant(s). The EPA's rules addressing SIP requirements for such programs are at 40 CFR 51.160 through 51.614. The EPA's focus in the infrastructure SIP context is on evaluation of whether the state has an EPA-approved minor NSR program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submission, therefore, the EPA does not think it is necessary to re-review each and every provision of a state's existing minor source program (*i.e.,* already in the existing SIP) for compliance with the requirements of the CAA and the EPA's regulations that pertain to such programs.[28] We have previously found that North Dakota's program meets all minor new source review permitting requirements set forth at 40 CFR 51.160 through 51.164, including the requirement that a SIP-approved minor source program specifically identify the types and sizes of facilities that will be subject to review (see 40 CFR 51.160(e)).

With respect to the North Dakota infrastructure SIP submission presently before us, the EPA reviewed the submission itself, and evaluated the text of its provisions for compliance with the relevant elements of section 110(a)(2). In the NPRM, the EPA explicitly evaluated the State's infrastructure SIP submission on a requirement-by-requirement basis and explained its views on the adequacy of the State's submission for purposes of meeting the applicable infrastructure SIP requirements. Specifically, we

[28] *See, e.g.,* 82 FR 22082, May 12, 2017 (final rule); 82 FR 39090, August 17, 2017 (proposed rule); 80 FR 13315, March 13, 2015 (proposed rule).

found that North Dakota has EPA-approved minor NSR and major NSR permitting programs, which regulate ozone precursors for the purposes of the 2015 ozone NAAQS. Accordingly, North Dakota's infrastructure SIP submission satisfies the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of stationary sources as necessary to assure the maintenance and attainment of the NAAQS. *See* 2013 Infrastructure SIP guidance at page 24.

Nevertheless, the EPA appreciates and takes seriously the DRC's concern and assertions that North Dakota's minor NSR permitting program may not adequately capture upstream oil and gas emissions, and that the aggregate emissions from the oil and gas industry may interfere with attainment and maintenance of the 2015 ozone NAAQS now or in the future. However, these concerns are best addressed outside the context of an infrastructure SIP action. The EPA has previously explained, as part of infrastructure SIP approvals, that EPA does not need to reconsider whether it should have approved or disapproved a state's existing minor NSR program.[29] The statutory requirements of CAA section 110(a)(2)(C) provide for considerable flexibility in designing minor NSR programs. Furthermore, states have some discretion with respect to sources that are subject to minor NSR permitting requirements, and the EPA has previously approved the States' exercise of that discretion with regard to their minor NSR programs.[30] A detailed re-review of how the State has chosen to exercise this discretion is not needed in the context of an infrastructure SIP review to ensure that the minor NSR portion of a SIP meets basic structural requirements.

Because this action involves a review of the infrastructure SIP and North Dakota already has an approved minor source NSR program that covers the necessary pollutants, we have not conducted a detailed examination of the DRC's assertions concerning the perceived inadequate regulation of upstream oil and gas production facilities in the State's minor NSR program. The EPA understands that North Dakota's previously-approved regulations exempt certain oil and gas production facilities from needing a permit to construct (provided there is no Federal requirement for a permit or approval for construction or operation), but such sources are subject to registration and reporting requirements under North Dakota Administrative Code (NDAC) Chapter 33.1–15–20. That regulation requires registration forms to ''contain sufficient information to allow the department to determine if the oil or gas well and associated production facility is in compliance with all applicable sections of this chapter,'' and mandates compliance with major source permitting under PSD for any oil or gas well production facility that is a major stationary source (or that has undertaken a major modification). Chapter 33.1–15–20–04 also contains requirements for the control of production facility emissions and specifically notes that ''any volatile organic compound gas or vapor may be subject to controls as specified in chapter 33.1–15–07.'' Accordingly, upstream oil and gas production facilities are not wholly exempt from regulation in the State's SIP.

If the DRC believes these previously-approved provisions are substantively inadequate considering the nature of oil and gas operations in North Dakota, the DRC can petition the EPA to evaluate the merits of these assertions, separate from this action. We note that multiple statutory tools and avenues exist that the EPA can use to rectify potential deficiencies with a SIP and a state's implementation thereof, and the existence of these tools is consistent with the EPA's interpretation of section 110(a)(2) with respect to the EPA's role in reviewing infrastructure SIP submissions. For example, the CAA provides the EPA the authority to issue a SIP call, 42 U.S.C. 7410(k)(5); make a finding of failure to implement, *id.* sections 7410(m), 7509(a)(4); and take measures to address specific permits pursuant to the EPA's case-by-case permitting oversight. *See, e.g., id.* section 7661d(b). The appropriateness of employing these authorities depends on the nature and extent of the particular problems at issue; however, the public is encouraged to use such avenues and tools to provide the EPA with notice of any alleged problem or deficiency.

In the meantime, the EPA is finalizing its approval of the North Dakota infrastructure SIP submission that is currently before the EPA with respect to the general requirement in section 110(a)(2)(C). If the EPA was to later determine that the scope of the minor source permitting program administered by the State is not sufficient to protect the NAAQS, we could at that time take appropriate action to ensure those problems and deficiencies are rectified using whatever statutory tools are appropriate. The EPA is committed to working with states and the public to correct SIP deficiencies.

Finally, addressing the commenter's assertion that North Dakota has a deficiency pertaining to section 110(a)(2)(E), *i.e.,* a lack of personnel and funding, given that the DRC has not provided any information to support this claim or to counter our prior analysis of the State's submittal with respect to section 110(a)(2)(E), we are approving this action in accordance with our analysis from the NPRM.

Comment: The DRC asserts that the North Dakota submittal has problematic ozone monitoring data, which ''masks rising ozone pollution in North Dakota.'' The DRC also explains that they expect ''that when the 2016 data falls away and is replaced by the 2019 data from this year, that North Dakota's 3-year average ozone emissions in western North Dakota will increase significantly.'' Accordingly, the DRC concludes that the EPA must ''object to North Dakota's plan now, because this SIP is intended to carry North Dakota well into the future . . . .''

Response: The EPA disagrees with the DRC that North Dakota's submittal is erroneous, and we disagree that the monitoring data[31] provided by the State disguises ozone data. The State's submission includes a time-series bar graph (without discrete values noted) showing nine distinct monitoring sites' ozone design values in increments of 5 parts per billion (ppb), beginning in 2003 and ending in 2017. The EPA notes that this State-provided graph[32] depicts ozone design value data for monitoring sites, not annual fourth-highest daily maximum 8-hour average ozone concentration monitoring data. A design value is a statistical representation of the air quality status of a given location relative to the level of the NAAQS. The DRC has calculated its own data table in page three of their comment; the values that DRC has calculated correspond to the EPA's own truncated[33] data for annual fourth-highest daily maximum 8-hour average ozone concentration monitoring data. Although a design value for an ozone air quality monitoring site is related to the annual fourth-highest daily maximum 8-hour average ozone concentration (the design value being the rolling three-year average of that data), the values are not

[29] *See, e.g.,* 77 FR 58957, September 25, 2012; 79 FR 62838, October 21, 2014; 84 FR 18187, April 30, 2019; 85 FR 55, January 2, 2020.

[30] *See, e.g.,* 76 FR 81373–76, Dec. 28, 2011.

[31] *See* North Dakota's 2015 ozone NAAQS submittal, attachment 2, ''North Dakota Ozone Monitoring Data'' at 21.

[32] The original spreadsheet which North Dakota used to create the graph is included in the docket.

[33] *See* 40 CFR part 50, appendix I—Interpretation of the 8-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone.

equivalent. The EPA has provided a table of design values that supports the graph provided by the State. *See* Table 2. Furthermore, the EPA has provided a graph (current to year 2018) of the ozone design value long-term trends for North Dakota; both Oliver County and Williams County are labeled as to their design value trends. *See* Graph 1. We also note that design values are typically used to designate and classify nonattainment areas, as well as to assess progress towards meeting the NAAQS. It should be noted that North Dakota has not violated the 2008 or 2015 ozone NAAQS, nor is North Dakota classified as nonattainment for the 2008 or 2015 ozone NAAQS; moreover, the trend lines in Graph 1 indicate generally that the design values for ozone monitoring sites in North Dakota show a somewhat downward to level trend, excluding Oliver and Williams counties which show a slight upward trend.

While the EPA acknowledges that ozone monitoring data may change over time, such factors are not relevant to the EPA's review of the State's infrastructure SIP submission.

TABLE 2—THREE-YEAR AVERAGE OF ANNUAL FOURTH-HIGHEST DAILY MAXIMUM 8-HOUR AVERAGE OZONE CONCENTRATION (DESIGN VALUES) [34]

	Ozone monitoring site design values (ppm)									
Year	Billings	Burke	Burleigh	Cass	Dunn	McKenzie	Mercer	Oliver	Ward	Williams
2000	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
2001	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
2002	0.059	.....	.....	0.062	.....	.....	0.058	0.056	.....	.....
2003	.....	.....	.....	0.063	0.06	0.062	0.062	0.058	.....	.....
2004	.....	.....	.....	0.061	0.058	0.063	0.06	0.056	.....	.....
2005	.....	.....	.....	0.06	0.056	0.062	0.058	0.056	.....	.....
2006	0.06	0.057	.....	0.06	0.055	0.06	0.059	0.057	.....	.....
2007	0.063	0.058	.....	0.06	0.057	0.062	0.061	0.06	.....	.....
2008	0.063	0.059	0.059	0.058	0.059	0.064	0.062	0.061	.....	.....
2009	0.06	0.059	0.056	0.055	0.057	0.061	0.058	0.058	.....	.....
2010	0.059	0.06	0.057	0.058	0.057	0.06	0.059	0.059	.....	.....
2011	0.058	0.06	0.057	0.059	0.055	0.059	0.058	0.058	.....	.....
2012	0.058	0.059	0.058	0.061	0.056	0.059	0.06	0.058	.....	.....
2013	0.057	0.058	0.058	0.059	0.056	0.058	0.059	0.058	.....	.....
2014	0.056	0.057	0.059	0.06	0.057	0.057	0.058	0.059	.....	.....
2015	0.058	0.061	0.061	0.058	0.059	0.058	0.057	0.061	.....	0.058
2016	0.058	0.059	0.057	0.056	0.058	0.057	0.055	0.059	.....	0.056
2017	0.06	0.059	0.057	0.057	0.058	0.058	0.057	0.06	.....	0.057
2018	0.059	0.058	0.055	0.059	0.057	0.058	0.059	0.059	.....	0.058

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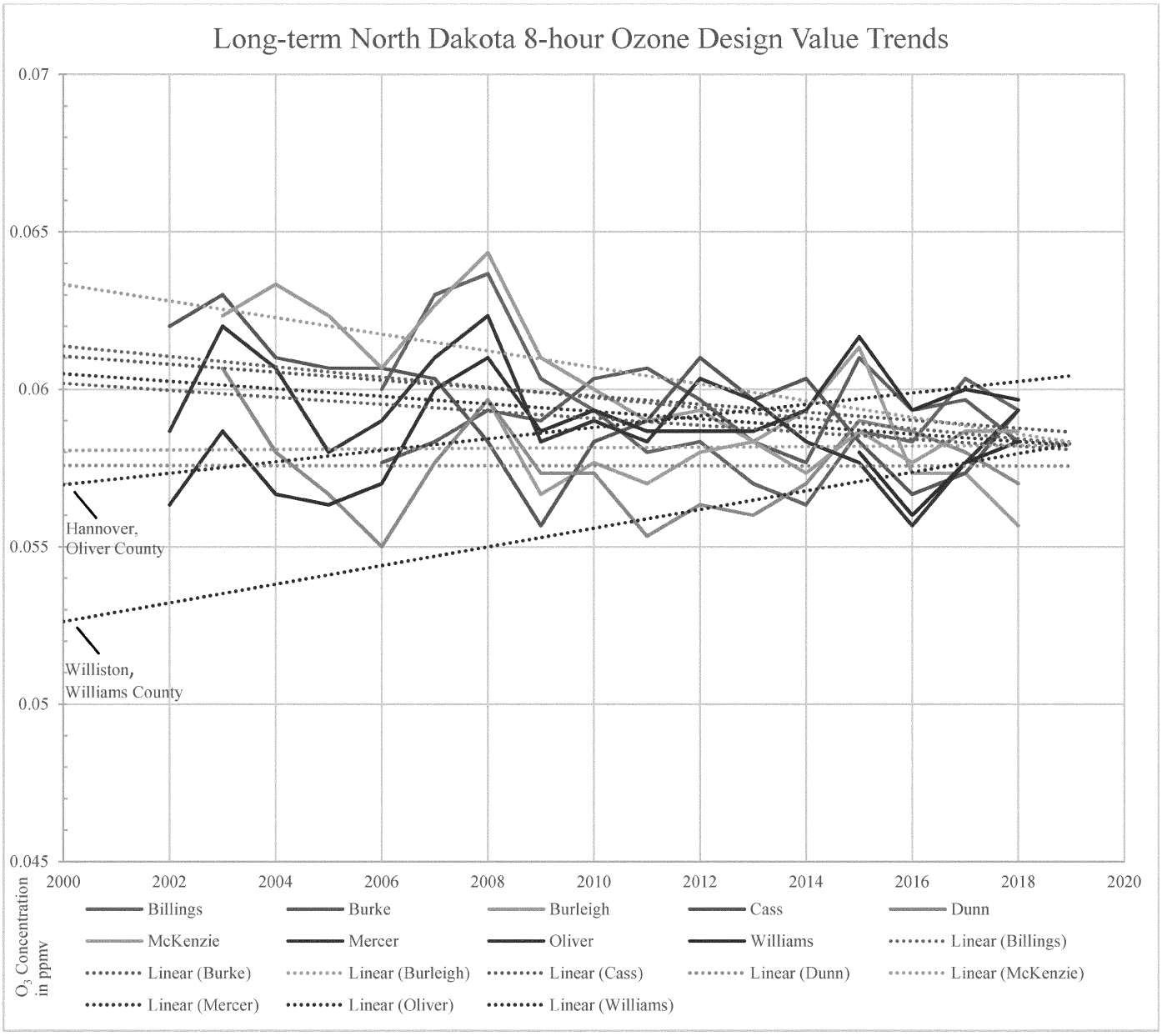
[34] Data source: EPA Air Quality System (AQS).

Graph 1. Long-term North Dakota Ozone Design Values with Linear Trends.



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III. Final Action

The EPA is approving multiple elements and disapproving a single element of the following infrastructure SIP submissions with respect to infrastructure requirements for the 2015 ozone NAAQS for Colorado and North Dakota.

With respect to Colorado, the EPA is approving Colorado's September 17, 2018 infrastructure SIP submission as meeting all of the CAA section 110(a)(2) infrastructure elements for the 2015 ozone NAAQS.

With respect to North Dakota, the EPA is approving North Dakota's November 6, 2018 SIP submission [36] for the following CAA section 110(a)(2) infrastructure elements for the 2015 ozone NAAQS: (A), (B), (C), (D)(i)(I) Prong 1 Interstate transport—significant contribution, (D)(i)(I) Prong 2 Interstate transport—interference with maintenance, (D)(i)(II) Prong 3 Interstate

[35] *Id.* This graph, printed here in grayscale, is *also available* in color at Design Value History for ND—EPA in the docket.

[36] The EPA notes that in few instances our July 29, 2019 NPRM (84 FR 36516) erroneously referenced certain North Dakota rules and regulations that had been renumbered due to the transfer of authority from the North Dakota Department of Health (NDDH) to the North Dakota Department of Environmental Quality (NDEQ) (for more information, please see footnote 1 in our July 29, 2019 NPRM). The NDDH rules and regulations were EPA-approved, however with the transfer of authority to the NDEQ, those rules and regulations were repealed and have been recodified and EPA-approved (see 84 FR 1610, February 5, 2019). The difference between the rule and regulation changes from NDDH to NDEQ is resolved by adding a ''decimal point one'' (.1); *e.g.* under the NDDH, North Dakota Administrative Code (NDAC) 33–15 changed to NDAC 33.1–15 under the NDEQ. We further note that the State's submittal correctly references the EPA-approved NDEQ rules and regulations. Although our July 29, 2019 NPRM contains these errors in some instances, our analysis for the July 29, 2019 NPRM evaluated the approvability of the North Dakota infrastructure SIP submission based on the correct NDEQ statutes.

transport—prevention of significant deterioration, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

For the reasons stated in the NPRM, the EPA is partially disapproving North Dakota's SIP submittal as to 110(a)(2)(D)(i)(II) prong 4 Interstate transport—visibility. 84 FR 36527. As noted in the NPRM, the EPA is not required to take further action with regard to the prong 4 disapproval. The EPA has an obligation to disapprove prong 4 requirements as a result of disapproving portions of a state's regional haze SIP submission. However, as discussed in the NPRM, FIP requirements promulgated by the EPA are already in effect that correct all regional haze SIP deficiencies for the first planning period for North Dakota. All of North Dakota's obligations under 40 CFR 51.308 and 51.309, including those relevant to participation in a regional haze planning process and achieving the State's apportionment of emission reduction obligations as to Class I areas in other states, are being addressed either through FIPs or SIPs for the first planning period. This ensures that emissions from sources within North Dakota are not interfering with measures required to be included in other air agencies' plans to protect visibility. Under the EPA's 2013 iSIP guidance, this is sufficient to satisfy prong 4 requirements for the first planning period. *See* 2013 Guidance at 33. Thus, there are no additional practical consequences from this disapproval for the State, the sources within its jurisdiction, or the EPA. *See id.* at 34–35. The EPA finds its prong 4 obligations for North Dakota for the 2015 ozone NAAQS are satisfied.

Finally, we are approving a portion of North Dakota's May 2, 2019 submission of Chapter 33.1–15–15, the air pollution control rules of the State of North Dakota, which updates the date of IBR of Federal rules. The EPA is solely approving the revision applicable to the IBR date for 40 CFR 52.21(l)(1).

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of North Dakota Administrative Code Chapter 33.1–15–15 described in Section III of this preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the persons identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the State implementation plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[37]

V. Statutory and Executive Order Reviews

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

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 9, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

[37] *See* 62 FR 27968, May 22, 1997.

Dated: March 25, 2020.

Gregory Sopkin,

Regional Administrator, Region 8.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart G—Colorado

■ 2. Section 52.353 is amended by adding paragraph (e) to read as follows:

§ 52.353 Section 110(a)(2) infrastructure requirements.

* * * * *

(e) The Colorado Department of Environmental Quality submitted certification of Colorado's infrastructure SIP for the 2015 O_3 NAAQS on September 17, 2018. Colorado's infrastructure certification demonstrates how the State, where applicable, has plans in place that meet the requirements of section 110 for the 2015 O_3 NAAQS. The State's Infrastructure SIP for 2015 O_3 NAAQS is approved with respect to CAA section 110(a)(1) and (2).

Subpart JJ—North Dakota

■ 3. In § 52.1820, the table in paragraph (c) is amended by revising the entry ''33.1–15–15–01.2'' to read as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	*	* *
33.1–15–15. Prevention of Significant Deterioration of Air Quality					
*	*	*	*	*	* *
33.1–15–15–01.2	Scope	1/1/2019	5/11/2020	[insert **Federal Register** citation], 4/10/2020.	Originally approved as 33–15–15–01 on 10/21/2016, 81 FR 72718.
*	*	*	*	*	* *

* * * * *

■ 4. Section 52.1833 is amended by adding paragraph (i) to read as follows:

§ 52.1833 Section 110(a)(2) infrastructure requirements.

* * * * *

(i) The North Dakota Department of Environmental Quality submitted certification of North Dakota's infrastructure SIP for the 2015 O_3 NAAQS on November 6, 2018. North Dakota's infrastructure certification demonstrates how the State, where applicable, has plans in place that meet the requirements of section 110 for (A), (B), (C), (D)(i)(I) (Prongs 1 and 2), (D)(i)(II) (Prong 3), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). The EPA is disapproving (D)(i)(II) (Prong 4).

[FR Doc. 2020–06685 Filed 4–9–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2018–0208; FRL–10006–28–Region 6]

Air Plan Approval; Oklahoma; Updates to the General SIP and New Source Review Permitting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving identified portions of revisions to the State Implementation Plan (SIP) for Oklahoma submitted by the State of Oklahoma designee by letters dated May 16, 1994; July 26, 2010; January 8, 2018; May 16, 2018; and December 19, 2018, and as clarified by letter dated May 16, 2018. This action addresses submitted revisions to the Oklahoma SIP pertaining to the incorporation by reference of federal requirements, updates to the general SIP provisions, and updates to the New Source Review (NSR) permit programs to address public notice and modeling requirements, including certain statutory provisions.

DATES: This rule is effective on May 11, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2018–0208. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov* or in hard copy at the EPA Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Adina Wiley, EPA Region 6 Office, Air Permits Section, 1201 Elm Street, Suite 500, Dallas, TX 75270, 214–665–2115, *wiley.adina@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Ms. Adina Wiley or Mr. Bill Deese at 214–665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' means the EPA.

I. Background

The background for this action is discussed in detail in our December 3, 2019 proposal (84 FR 66103). In that document we proposed to approve revisions to the Oklahoma SIP submitted on May 16, 1994; July 26, 2010; January 8, 2018; May 16, 2018; and December 19, 2018, and as clarified by letter dated May 16, 2018. The revisions include the incorporation by reference dates for federal requirements and updates to the NSR Prevention of Significant Deterioration (PSD) and Nonattainment NSR permitting programs to maintain consistency with federal requirements. Our proposal included an analysis of these provisions and made a preliminary determination that the revisions were developed in accordance with the CAA and EPA's regulations, policy, and guidance for SIP development and NSR permitting.

We received one relevant comment on our proposed approval; the comment and our response are presented below.

II. Response to Comments

Comment: The commenter stated that the EPA needs to be clearer when it is approving regulations into the SIP, especially when acting on multiple SIP submittals at once. As an example, the commenter noted that the EPA appears to be trying to approve the January 8, 2018, and December 19, 2018 versions of Oklahoma Administrative Code (OAC) 252:100, Subchapter 2 and Appendix Q, both of which incorporate by reference federal rules as of a date certain. The commenter maintained that the EPA cannot approve both versions simultaneously, because the SIP can only incorporate by reference one version of the federal rules at a time. The commenter asserted that the EPA must find all instances of overlapping rules in all the SIP submissions and only approve one. Once the EPA decides which of the overlapping rules should be approved (*i.e.,* which submission is more recent), the commenter stated that the EPA must then disapprove the older versions of the rule as moot. The commenter concluded that the EPA approval of multiple overlapping SIPs would simply confuse the public.

Response: We agree with the commenter that action on multiple SIP submittals in a single rulemaking can present unique challenges; however, we present the following discussion in order to clarify our action and ensure the commenter, as well as the public, that we are approving only one version of each State regulation addressed by this action, as identified in the amendatory language included below. The Technical Support Document (TSD) associated with this rulemaking identifies each time the State regulatory section has been revised and submitted by Oklahoma as a proposed SIP revision. For each submission, our TSD provides a line-by-line evaluation of whether the submitted revision is approvable under federal requirements. Where a section has been revised multiple times, our TSD will show these multiple submissions side-by-side with a corresponding evaluation as to the approvability of the revisions. The amendatory language included in this final rule revises the Oklahoma SIP at 40 CFR 52.1920 based on the analysis presented in our TSD and the December 3, 2019 proposal. For example, the table at 40 CFR 52.1920(c) titled ''EPA Approved Oklahoma Regulations'' identifies each component of the Oklahoma SIP by the state citation, name of the section, state effective date, date and citation of EPA's final approval, and any comments pertinent to that section. Finally, the commenter is incorrect in stating that the EPA must disapprove older versions of the submitted rules as moot. As demonstrated in the TSD, the sequential Oklahoma regulations build on the earlier revisions. To disapprove older submittals as moot would be contrary to the State's intended rulemaking. No changes have been made as a result of this comment.

III. Final Action

We are approving the following as revisions to the Oklahoma SIP:

- Removal of Regulation 3.8, adopted on March 30, 1994, submitted May 16, 1994;
- New OAC 252:100–8–36.1, Public Participation, adopted on April 28, 2006, effective on June 15, 2006, submitted July 16, 2010;
- Submitted on January 8, 2018:
  - Revisions to OAC 252:100–1–3, Definitions, adopted on June 13, 2017 and effective September 15, 2017;
  - Revisions to OAC 252:100–2–3 and Appendix Q for Incorporation by Reference, adopted on June 13, 2017 and effective September 15, 2017;
  - Revisions to OAC 252:100–8–31, Definitions, adopted on June 13, 2017 and effective September 15, 2017;
  - Revisions to OAC 252:100–8–33, Exemptions, adopted on June 13, 2017 and effective September 15, 2017;
  - Revisions to OAC 252:100–8–35, Air quality impact evaluation, adopted on June 13, 2017 and effective September 15, 2017; and
  - Revisions to OAC 252:100–8–51.1, Emissions reductions and offsets, adopted on June 13, 2017 and effective September 15, 2017.
- Submitted on May 16, 2018:
  - Revisions to OAC 252:4–1–2, Definitions, adopted on June 9, 2016, effective September 15, 2016;
  - Revisions to OAC 252:4–1–3, Organization, adopted on April 25, 2013, effective July 1, 2013, and revisions adopted on June 9, 2016, effective September 15, 2016;
  - Revisions to OAC 252:4–1–5, Availability of a record, adopted on May 6, 2005, effective June 15, 2005, and revisions adopted on April 25, 2013, effective July 1, 2013;
  - Revisions to OAC 252:4–1–6, Administrative fees, adopted on May 6, 2005, effective June 15, 2005;
  - Revisions to OAC 252:4–3–1, Meetings, adopted on March 27, 2007, effective June 15, 2007;
  - Revisions to OAC 252:4–7–5, Fees and fee refunds, adopted on June 13, 2017, effective September 15, 2017;
  - Revisions to OAC 252:4–7–13, Notices, adopted on March 25, 2003, effective June 1, 2003, except for OAC 252:4–7–13(g)(4); and revisions adopted June 13, 2017, effective September 15, 2017;
  - Revisions to OAC 252:4–7–15, Permit issuance or denial, adopted on May 28, 2002, effective June 1, 2002, and revisions adopted April 25, 2013, effective July 1, 2013;
  - Revisions to OAC 252:4–7–18, Pre-issuance permit review and correction, adopted April 25, 2013, effective July 1, 2013;
  - New OAC 252:4–7–20, Agency review of final permit decision, adopted April 25, 2013, effective July 1, 2013;
  - Revisions to OAC 252:4–7–32, Air quality applications—Tier I, adopted March 25, 2003, effective June 1, 2003;
  - Revisions to OAC 252:4–7–33, Air quality applications—Tier II, adopted March 25, 2003, effective June 1, 2003, except for OAC 252:4–7–33(c)(4);
  - Revisions to OAC 252:4–9–32, Individual proceedings filed by others, as adopted on May 1, 2009, effective July 1, 2009 and revisions adopted April 25, 2013, effective July 1, 2013;
  - Revisions to OAC 252:4–9–51, In general, adopted on March 24, 2004, effective June 1, 2004;
  - Revisions to OAC 252:4–9–52, Individual proceedings, adopted on March 24, 2004, effective June 1, 2004;
  - New OAC 252:4–17, Electronic Reporting, sections OAC 252:4–17–1—OAC 252:4–17–7, adopted April 27, 2007, effective June 15, 2017;
  - Revisions to OAC 252:4–17–2, Definitions, adopted June 9, 2016, effective September 15, 2016;
  - Revisions to OAC 252:4–17–4, Electronic signature agreement, adopted

June 9, 2016, effective September 15, 2016;

○ Letter to Ms. Anne Idsal, Regional Administrator, EPA Region 6, dated May 16, 2018 regarding ''Clarification of PSD Public Participation Procedures under 2017 Revisions to the Oklahoma State Implementation Plan (SIP)'';

○ Definitions of ''Process Meeting'' and ''Response to Comments'' at 27A Oklahoma Statutes (O.S.) 2–14–103 added July 1, 1994, and last modified and effective November 1, 2015;

○ The provisions for notification to an affected state at 27A O.S. 2–5–112(E) added May 15, 1992, and last modified and effective June 3, 2004;

○ 27A O.S. 2–14–301, 2–14–302, and 2–14–303 added and in effect July 1, 1996;

○ 27A O.S. 2–14–304 added July 1, 1996, and last modified and effective May 9, 2002;

○ Definition of ''Record'' at 51 O.S. 24A.3, added November 1, 1985, and last modified and effective November 1, 2014;

○ The requirement to maintain, and the description of the contents of the rulemaking record at 75 O.S. 302(B) promulgated in 1963 and last modified and effective November 1, 1998;

○ The process for adoption, amendment or revocation of a rule at 75 O.S. 303 promulgated in 1963 and last modified and affective November 1, 2013; and

○ Definition of ''Meeting'' at 25 O.S. 304(2) added October 1, 1977, and last modified and effective in 2010.

• Submitted December 19, 2018:

○ Revisions to OAC 252:100–2–3 and Appendix Q adopted on June 18, 2018 and effective September 15, 2018; and

○ Revisions to OAC 252:100–8–35, Air quality impact evaluation, adopted on June 18, 2018 and effective September 15, 2018.

The EPA finds that the provisions in OAC 252:4–1–1, 4–1–2, 4–1–3, 4–1–4, 4–1–5, 4–1–6, 4–1–7, 4–1–8, and 4–1–9, and OAC 252:100–5–1, 5–1.1 and 5–2.2 are applicable to the entirety of the Oklahoma SIP and the amendatory language table at 40 CFR 52.1920(c) is modified to reflect this finding. Additionally, the EPA is removing the disapprovals listed in 40 CFR 52.1922(b)(2), (b)(3), (b)(4), and (c), because the state has submitted appropriate revisions to the SIP to correct the disapprovals.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference the revisions to the Oklahoma regulations as described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 6 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

V. Statutory and Executive Order Reviews

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

• Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 9, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide,

Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 19, 2020.

Kenley McQueen,

Regional Administrator, Region 6.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart LL—Oklahoma

■ 2. In § 52.1920:

■ a. In paragraph (c), amend the table titled ''EPA Approved Oklahoma Regulations'' by:

■ i. Removing the entries for Regulation ''3.8'', ''3.8(a)'', ''3.8(b)'', and ''3.8(c)'';

■ ii. Adding entries for ''52:4–7–20'', ''252:4–17–1'', ''252:4–17–2'', ''252:4–17–3'', ''252:4–17–4'', ''252:4–17–5'', ''252:4–17–6'', ''252:4–17–7'', ''252:100–8–36.1''; and

■ iii. Revising the entries for ''252:4–1–1''; ''252:4–1–2''; ''252:4–1–3''; ''252:4–1–4''; ''252:4–1–5''; ''252:4–1–6''; ''252:4–1–7''; ''252:4–1–8''; ''252:4–1–9''; ''252:4–3–1''; ''252:4–7–5''; ''252:4–7–13''; ''252–4–7–15''; ''252:4–7–18''; ''252:4–7–32''; ''252:4–7–33''; ''252:4–9–32''; ''252:4–9–51''; ''252:4–9–52''; ''252:100–1–3''; ''252:100–2–3''; ''252:100–5–1''; ''252:100–5–1.1''; ''252:100–5–2.2''; ''252:100–8–31''; ''252:100–8–33''; ''252:100–8–35''; ''252:100–8–51.1''; and ''252:100, Appendix Q''.

■ b. In paragraph (e),

■ i. Amend the table titled ''EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Oklahoma SIP'' by adding an entry for: ''Letter to Ms. Anne Idsal, Regional Administrator, EPA Region 6, dated May 16, 2018 regarding ''Clarification of PSD Public Participation Procedures under 2017 Revisions to the Oklahoma State Implementation Plan''.''

■ ii. Amend the second table titled ''EPA Approved Statutes in the Oklahoma SIP'' by adding entries for ''25 O.S. 304(2)'', ''27A O.S. 2–5–112(E)'', ''2–14–103, O.S. 2–14–301'', ''2–14–302'', ''2–14–303'', ''2–14–304''; ''51 O.S. 24A.3'', ''75 O.S. 302(B)'', and ''75 O.S. 303''.

The additions and revisions read as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED OKLAHOMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
OKLAHOMA ADMINISTRATIVE CODE, TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY				
Chapter 4 (OAC 252:4). Rules of Practice and Procedure				
Subchapter 1. General Provisions				
252:4–1–1	Purpose and authority	6/11/2001	4/10/2020, [Insert **Federal Register** citation].	
252:4–1–2	Definitions	9/15/2016	4/10/2020, [Insert **Federal Register** citation].	
252:4–1–3	Organization	9/15/2016	4/10/2020, [Insert **Federal Register** citation].	
252:4–1–4	Office location and hours; communications.	6/11/2001	4/10/2020, [Insert **Federal Register** citation].	
252:4–1–5	Availability of a record	7/1/2013	4/10/2020, [Insert **Federal Register** citation].	
252:4–1–6	Administrative fees	6/15/2005	4/10/2020, [Insert **Federal Register** citation].	
252:4–1–7	Fee credits for regulatory fees.	6/11/2001	4/10/2020, [Insert **Federal Register** citation].	
252:4–1–8	Board and councils	6/11/2001	4/10/2020, [Insert **Federal Register** citation].	
252:4–1–9	Severability	6/11/2001	4/10/2020, [Insert **Federal Register** citation].	
Subchapter 3. Meetings and Public Forums				
252:4–3–1	Meetings	6/15/2007	4/10/2020, [Insert **Federal Register** citation].	
*	*	*	*	*
Subchapter 7. Environmental Permit Process				
Part 1. The Process				

EPA APPROVED OKLAHOMA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	* *	*	*	* *
252:4–7–5	Fees and fee refunds	9/15/2017	4/10/2020, [Insert **Federal Register** citation].	Applicable to minor NSR permitting under OAC 252:100–7 and major NSR permitting under OAC 252:100–8.
*	* *	*	*	* *
252:4–7–13	Notices	9/15/2017	4/10/2020, [Insert **Federal Register** citation].	The SIP does NOT include (e), (f), or (g)(4). Applicable to minor NSR permitting under OAC 252:100–7 and major NSR permitting under OAC 252:100–8.
*	* *	*	*	* *
252:4–7–15	Permit issuance or denial	7/1/2013	4/10/2020, [Insert **Federal Register** citation].	Applicable to minor NSR permitting under OAC 252:100–7 and major NSR permitting under OAC 252:100–8.
*	* *	*	*	* *
252:4–7–18	Pre-issuance permit review and correction.	7/1/2013	4/10/2020, [Insert **Federal Register** citation].	Applicable to minor NSR permitting under OAC 252:100–7 and major NSR permitting under OAC 252:100–8.
*	* *	*	*	* *
252:4–7–20	Agency review of final permit decision.	7/1/2013	4/10/2020, [Insert **Federal Register** citation].	
*	* *	*	*	* *
Part 3. Air Quality Division Tiers and Time Lines				
*	* *	*	*	* *
252:4–7–32	Air quality applications—Tier I.	6/1/2003	4/10/2020, [Insert **Federal Register** citation].	Applicable to minor NSR permitting under OAC 252:100–7. The SIP does NOT include (a), (b), or (c)(1).
252:4–7–33	Air quality applications—Tier II.	6/1/2003	4/10/2020, [Insert **Federal Register** citation].	The SIP does NOT include (c)(4).
*	* *	*	*	* *
Subchapter 9. Administrative Proceedings				
*	* *	*	*	* *
Part 3. Individual Proceedings				
*	* *	*	*	* *
252:4–9–32	Individual proceedings filed by others.	7/1/2013	4/10/2020, [Insert **Federal Register** citation].	
*	* *	*	*	* *
Part 5. Air Quality Advisory Council Hearings				
252:4–9–51	In general	6/1/2004	4/10/2020, [Insert **Federal Register** citation].	
252:4–9–52	Individual proceedings	6/1/2004	4/10/2020, [Insert **Federal Register** citation].	
*	* *	*	*	* *
Subchapter 17. Electronic Reporting				
252:4–17–1	Purpose, authority and applicability.	6/15/2007	4/10/2020, [Insert **Federal Register** citation].	

EPA APPROVED OKLAHOMA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
252:4–17–2	Definitions	9/15/2016	4/10/2020, [Insert **Federal Register** citation].	
252:4–17–3	Use of electronic document receiving system.	6/15/2007	4/10/2020, [Insert **Federal Register** citation].	
252:4–17–4	Electronic signature agreement.	9/15/2016	4/10/2020, [Insert **Federal Register** citation].	
252:4–17–5	Valid electronic signature	6/15/2007	4/10/2020, [Insert **Federal Register** citation].	
252:4–17–6	Effect of electronic signature.	6/15/2007	4/10/2020, [Insert **Federal Register** citation].	
252:4–17–7	Enforcement	6/15/2007	4/10/2020, [Insert **Federal Register** citation].	
*	*	*	*	*
Chapter 100 (OAC 252:100). Air Pollution Control				
Subchapter 1. General Provisions				
*	*	*	*	*
252:100–1–3	Definitions	9/15/2017	4/10/2020, [Insert **Federal Register** citation].	
*	*	*	*	*
Subchapter 2. Incorporation by Reference				
*	*	*	*	*
252:100–2–3	Incorporation by reference	9/15/2018	4/10/2020, [Insert **Federal Register** citation].	
*	*	*	*	*
Subchapter 5. Registration, Emission Inventory and Annual Operating Fees				
252:100–5–1	Purpose	6/11/2001	4/10/2020, [Insert **Federal Register** citation].	
252:100–5–1.1	Definitions	6/15/2007	4/10/2020, [Insert **Federal Register** citation].	
*	*	*	*	*
252:100–5–2.2	Annual operating fees	6/11/2001	4/10/2020, [Insert **Federal Register** citation].	
*	*	*	*	*
Subchapter 8. Permits for Part 70 Sources				
*	*	*	*	*
Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas				
*	*	*	*	*
252:100–8–31	Definitions	9/15/2017	4/10/2020, [Insert **Federal Register** citation].	
*	*	*	*	*
252:100–8–33	Exemptions	9/15/2017	4/10/2020, [Insert **Federal Register** citation].	
*	*	*	*	*
252:100–8–35	Air quality impact evaluation.	9/15/2018	4/10/2020, [Insert **Federal Register** citation].	
*	*	*	*	*
252:100–8–36.1	Public participation	6/15/2006	4/10/2020, [Insert **Federal Register** citation].	

EPA APPROVED OKLAHOMA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Part 9. Major Sources Affecting Nonattainment Areas				
*	*	*	*	*
252:100–8–51.1	Emission reductions and offsets.	9/15/2017	4/10/2020, [Insert **Federal Register** citation].	
*	*	*	*	*
Appendices for OAC 252: Chapter 100				
*	*	*	*	*
252:100, Appendix Q	Incorporation by reference	9/15/2018	4/10/2020, [Insert **Federal Register** citation].	SIP only includes specified portions of 40 CFR parts 50, 51, and 98, as referenced in 252:100, Appendix Q.
*	*	*	*	*

* * * * * (e) * * *

EPA-APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE OKLAHOMA SIP

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	*
Letter to Ms. Anne Idsal, Regional Administrator, EPA Region 6, dated May 16, 2018 regarding ''Clarification of PSD Public Participation Procedures under 2017 Revisions to the Oklahoma State Implementation Plan''.	Statewide	05/16/2018	4/10/2020, [Insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

EPA APPROVED STATUTES IN THE OKLAHOMA SIP

State citation	Title/subject	State effective date	EPA approval date	Explanation
25 O.S. 304(2)	Oklahoma Open Meetings Act	8/27/2010	4/10/2020, [Insert **Federal Register** citation].	SIP only includes the definition of ''Meeting''.
27A O.S. 2–5–112(E).	Oklahoma Clean Air Act; Implementation of Comprehensive Permitting Program.	6/3/2004	4/10/2020, [Insert **Federal Register** citation].	SIP only includes the provisions for notification to an affected state.
27A O.S. 2–14–103	Uniform Environmental Permitting Act; Definitions.	11/1/2015	4/10/2020, [Insert **Federal Register** citation].	SIP only includes definitions of ''Process Meeting'' and ''Response to Comments''.
27A O.S. 2–14–301	Uniform Environmental Permitting Act; Notice.	7/1/1996	4/10/2020, [Insert **Federal Register** citation].	
27A O.S. 2–14–302	Uniform Environmental Permitting Act; Preparation of Draft Denial or Permit.	7/1/1996	4/10/2020, [Insert **Federal Register** citation].	
27A O.S. 2–14–303	Uniform Environmental Permitting Act; Formal Public Meeting.	7/1/1996	4/10/2020, [Insert **Federal Register** citation].	
27A O.S. 2–14–304	Uniform Environmental Permitting Act; Draft Permits or Denials for Tier Applications.	5/9/2002	4/10/2020, [Insert **Federal Register** citation].	

EPA APPROVED STATUTES IN THE OKLAHOMA SIP—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
51 O.S. 24A.3	Oklahoma Open Records Act; Definitions.	11/1/2014	4/10/2020, [Insert **Federal Register** citation].	SIP only includes the definition of ''Record''.
75 O.S. 302(B)	Administrative Procedures Act; Promulgation of certain rules—Public inspection of rules, orders, decision and opinions—Rulemaking record—Prohibited actions—Violations.	11/1/1998	4/10/2020, [Insert **Federal Register** citation].	SIP only includes the requirement to maintain, and the description of the contents of the rulemaking record.
75 O.S. 303	Administrative Procedures Act; Adoption, amendment or revocation of rule.	11/1/2013	4/10/2020, [Insert **Federal Register** citation].	SIP only includes the process for adoption, amendment or revocation of a rule.
*	*	*	*	*	*	*

* * * * *

■ 3. In § 52.1922 revise paragraph (b) and remove paragraph (c).

The revision reads as follows:

§ 52.1922 Approval status.

* * * * *

(b) The EPA is disapproving the following severable portions of the February 6, 2012, Oklahoma SIP submittal:

(1) Revisions establishing Minor New Source Review Greenhouse Gas (GHG) permitting requirements at OAC 252:100–7–2.1 as submitted on February 6, 2012.

(2) [Reserved].

* * * * *

[FR Doc. 2020–06160 Filed 4–9–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2019–0266; FRL–10005–93]

Autographa Californica Multiple Nucleopolyhedrovirus Strain R3; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *Autographa californica* multiple nucleopolyhedrovirus strain R3 in or on all food commodities when used in accordance with label directions and good agricultural practices. AgBiTech Pty Ltd. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Autographa californica* multiple nucleopolyhedrovirus strain R3 in or on all food commodities under FFDCA.

DATES: This regulation is effective April 10, 2020. Objections and requests for hearings must be received on or before June 9, 2020 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2019–0266, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2019–0266 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before June 9, 2020. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please

submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2019–0266, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background

In the **Federal Register** of June 7, 2019 (84 FR 26630) (FRL–9993–93), EPA issued a notice pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance exemption petition (PP 8F8697) by AgBiTech Pty Ltd., 8 Rocla Ct., Glenvale, Queensland 4350, Australia (c/o V.A. Forster Consulting, Inc., P.O. Box 4097, Wilmington, DE 19807). The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the insecticide *Autographa californica* multiple nucleopolyhedrovirus strain R3 in or on all food commodities. That notice referenced a summary of the petition prepared by the petitioner AgBiTech Pty Ltd. and available in the docket via *http://www.regulations.gov.* No relevant comments were received.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity.''

EPA evaluated the available toxicological and exposure data on *Autographa californica* multiple nucleopolyhedrovirus strain R3 and considered their validity, completeness, and reliability, as well as the relationship of this information to human risk. A summary of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled ''Federal Food, Drug, and Cosmetic Act (FFDCA) Safety Determination for *Autographa californica* Multiple Nucleopolyhedrovirus strain R3'' (''Safety Determination Document''). This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

The available data demonstrated that, with regard to humans, *Autographa californica* multiple nucleopolyhedrovirus strain R3 is not toxic, pathogenic, or infective via any reasonably foreseeable route of exposure and when used in accordance with label directions and good agricultural practices. Baculoviruses, such as *Autographa californica* multiple nucleopolyhedrovirus strain R3, are ubiquitous in the environment and have been extensively studied with no adverse effects in mammals observed or known. Although there may be dietary and non-occupational exposure to residues when *Autographa californica* multiple nucleopolyhedrovirus strain R3 is used on food commodities, there is not a concern due to the lack of potential for adverse effects when used in accordance with label directions and good agricultural practices. EPA also determined that retention of the Food Quality Protection Act safety factor was not necessary as part of the qualitative assessment conducted for *Autographa californica* multiple nucleopolyhedrovirus strain R3.

Based upon its evaluation in the Safety Determination Document, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Autographa californica* multiple nucleopolyhedrovirus strain R3 when used in accordance with label directions and good agricultural practices. Therefore, an exemption from the requirement of a tolerance is established for residues of *Autographa californica* multiple nucleopolyhedrovirus strain R3 in or on all food commodities when used in accordance with label directions and good agricultural practices.

B. Analytical Enforcement Methodology

An analytical method for enforcement purposes is not required because EPA has determined that reasonably foreseeable exposure to residues of *Autographa californica* multiple nucleopolyhedrovirus strain R3 from use of the pesticide will be safe, due to lack of toxicity, pathogenicity, and infectivity. Under those circumstances, it is unnecessary to have an analytical method to monitor for residues.

IV. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information

collections subject to OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this action, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or Tribal governments, on the relationship between the National Government and the States or Tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, EPA has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require EPA's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 272 note).

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 4, 2020.

Richard Keigwin,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.1374 to subpart D to read as follows:

§ 180.1374 *Autographa californica* multiple nucleopolyhedrovirus strain R3; exemption from the requirement of a tolerance.

Residues of *Autographa californica* multiple nucleopolyhedrovirus strain R3 are exempt from the requirement of a tolerance in or on all food commodities when used in accordance with label directions and good agricultural practices.

[FR Doc. 2020–07043 Filed 4–9–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[EPA–R06–RCRA–2016–0549; FRL–10004–22–Region 6]

Texas: Final Authorization of State-Initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and response to comments.

SUMMARY: In this rule, the Environmental Protection Agency (EPA) is approving state-initiated changes and incorporation by reference of the State of Texas hazardous waste program under the Resource Conservation and Recovery Act. The EPA also addresses comments it received after issuing two proposed rules on the Texas revisions. EPA is confirming the program revisions to the State of Texas hazardous waste program satisfy all requirements needed to qualify for final authorization. No further opportunity for comment will be provided. This final rule also codifies and incorporates by reference the authorized provisions of the Texas statutes and regulations in the Code of Federal Regulations.

DATES: This final rule is effective April 10, 2020. The incorporation by reference of authorized provisions in the Texas statutes and regulations contained in this rule is approved by the Director of the Federal Register as of April 10, 2020, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–RCRA–2016–0549. All documents in the docket are listed in *www.regulations.gov* index. Although listed in the index, some of the information is not publicly available. *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy. You can view and copy the documents that form the basis for the codification and associated publicly available materials from 8:30 a.m. to 4:00 p.m., Monday through Friday, at the following location: EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas, 75270, phone number (214) 665–8533. Interested persons wanting to examine these documents should make an appointment with the office.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6, Regional Authorization/Codification Coordinator, Permit Section (LCR–RP), Land, Chemicals and Redevelopment Division, EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270, and Email address *patterson.alima@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. What were the comments and responses to EPA's proposal?

During the initial public comment period that ended on November 23, 2018, EPA received comments from three sources regarding EPA's proposal to (1) authorize State-initiated changes to Texas' hazardous waste regulations in accordance with 40 CFR part 271 and (2) codify in 40 CFR part 272, the prior approval of Texas' hazardous waste management program and incorporate by reference authorized provisions of the State's statutes and regulations. For the public comment period ending August 9, 2019, EPA received one comment from one of the initial commenters which reiterated concerns about the Texas authorized program. The full set of comments can be found in the docket for this action.

In accordance with 40 CFR parts 271 and 272, EPA provides the following responses to comments regarding the authorization and codification of Texas' hazardous waste program under RCRA subtitle C:

One commenter made a reference to a previous Texas authorization **Federal Register** notice published on September 3, 2014 (79 FR 52220; EPA–R06–RCRA–2013–0624–0003) in which the commenter raised an issue about Texas' land disposal restrictions (LDR) requirements. In an initial comment received on November 19, 2018 for the October 24, 2018 Proposed Rule, the commenter asserted that EPA does not address public comments that oppose a State's authorization and requested a ''complete top-to-bottom review'' of Texas' RCRA program, starting with the Texas land disposal restrictions and the hazardous fluorescent lamp programs to ensure that the State's program is no less stringent than the Federal law and regulations. This same commenter reiterated the same concerns in a comment submitted during the extended public comment period that ended on August 9, 2019. EPA responds to this comment as follows:

The commenter's assertion that EPA does not address public comments that oppose a State's authorization is incorrect. The EPA does address adverse comments that pertain to specific final rules for which a State is seeking authorization. In the case of the September 3, 2014 **Federal Register** notice, the Texas authorization did not pertain to the LDR program and therefore the comment about LDR was not relevant to the action addressed in that authorization notice. See *www.regulations.gov* for the response to the comment posted on September 15, 2014. With respect to the hazardous waste lamp rule, as introduced into the Federal regulations on July 6, 1999 (64 FR 36466), EPA reviewed Texas regulations for those provisions and determined that they were equivalent to the Federal requirements and authorized the State for the lamp requirements (70 FR 34371, June 14, 2005). EPA can only address the comments and take action on the specific set of rules which are identified in the current rulemaking. Prior rulemakings should be challenged at the time they are proposed and finalized. If they are not challenged in a timely manner, the concept of final agency action under the Administrative Procedure Act (See 5 U.S.C. Sec.704) would be undermined. In order to adequately address the concerns of this anonymous commenter, EPA recommends that the commenter contact EPA directly and send written documentation, outlining the specific reasons for their assessment and conclusions about the Texas authorized hazardous waste program. The information sent to EPA should provide supporting documentation and rationale for their evaluation of the Texas program or the commenter may contact the Region to discuss their concerns.

A second set of comments were submitted by the Sierra Club which raised a number of issues related to: (1) EPA's proposed authorization of State-initiated changes to Title 30, Texas Administrative Code, sections 335.155(1) and 335.261(b)(15), analogous to 40 CFR 264.77(a) and 273.8(a)(2), respectively; (2) authorized Texas provisions and amendments to previously authorized provisions in the Texas regulations; and (3) limited explanation and information about accessing the agency's documents underlying the proposed action.

In the first issue, the Sierra Club objected to EPA authorizing the State-initiated changes that EPA has deemed minor without the State submitting a formal application for EPA authorization or providing the citation of authority which explains the basis for the absence of a formal application. The Sierra Club further asserted that the formal application would have provided the associated public participation processes. EPA's response to this comment is discussed in Section B below.

The second issue raised by the Sierra Club involved the documentation EPA provided in the proposed rule relative to the codification and incorporation by reference of the Texas authorized program. The Sierra Club acknowledged that in the proposed rule, EPA notified the public that there are some provisions of the Texas hazardous waste management program that are not part of the Federally authorized State program; such as State analogs to Federal provisions for which the State is not authorized, unauthorized amendments to previously authorized State provisions, new unauthorized State requirements and Federal rules for which Texas is authorized but which have since been vacated. See, 83 FR 53597, October 24, 2018. In addition, the Sierra Club emphasized that ''[S]imply noting that there are such unauthorized provisions in the Texas program and that they are not Federally enforceable falls short of EPA's legal obligations under RCRA.'' and ''if the Texas hazardous waste program contains any provision that is less stringent than the Federal requirements, it is unlawful and EPA must disapprove it until those provisions are corrected or eliminated.'' EPA responds to this comment as follows:

As discussed in Section II.C of the proposed rule, the purpose of the codification of the Texas statutes and regulations under 40 CFR part 272 is to clarify which of the Texas provisions are included in the authorized and Federally enforceable program and for the public to be able to discern the status of Federally approved requirements of the Texas hazardous waste management program. The codification process that EPA follows requires the Agency to review the State's entire regulations in order to document the provisions that EPA has already authorized, and to identify all provisions and language in the State's regulations that EPA has not authorized. Such unauthorized State provisions may include (1) analogs to Federal provisions adopted by the State; (2) State-only provisions with no Federal analogs; (3) amendments to previously authorized provisions; or (4) Federal provisions adopted by the State but which have since been vacated by a Court at the Federal level. The process allows EPA to identify regulatory and statutory deficiencies in the State's authorized program and to require the State to make corrections and amendments to the State regulations and statutes to be at least equivalent and consistent and not less stringent than the Federal program. The State is then required to submit a program revision application to EPA for review and approval. While the State is addressing those issues, EPA proceeds with the codification of the State's authorized program and makes it clear to the public in the codification **Federal Register** document which State provisions are not part of the authorized program.

In the case of the Comparable Fuels Exclusions (63 FR 33782, 6/19/98) and the Hazardous Waste Gasification Exclusion (73 FR 57 1/2/08) for which Texas was previously authorized, but which have since been vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379 and 08–1144, respectively; June 27, 2014), the EPA is clarifying in this final rule, that the Texas provisions are no longer part of the State's authorized program. The effect of the vacaturs on all States, including Texas, is that the previously authorized comparable fuels and gasification rules from the State program are no longer to be considered part of the Federally authorized program. Thus, EPA may bring enforcement actions under RCRA Section 3008 at facilities that do not

comply with the RCRA hazardous waste regulations.

EPA has been working with the State of Texas to make the necessary corrections to its regulations and to submit an application to EPA for review. In the Binder entitled ''*EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program,*'' dated December 2015 (the Binder) that is incorporated by reference, EPA crosses out all provisions and language that EPA has determined are not part of the State's authorized requirements. The ''*Addendum to the EPA Approved Texas Regulatory Requirements Applicable to the Hazardous Waste Management Program*'' (the Addendum) includes the actual State regulatory text authorized by the EPA for the citations listed at 272.2201(c)(4).

Finally, the commenters indicated that EPA did not make available in the e-docket at *www.regulations.gov* all supporting documents for EPA's proposed authorization and codification of the Texas hazardous waste management program. With the publication of the August 9, 2019 **Federal Register** notice that extended the public comment period for 30 days, EPA provided all supporting documents at *www.regulations.gov.* Copies of both the Binder and the Addendum were also made available to the public in the e-docket at *www.regulations.gov.*

B. What State-initiated changes is EPA authorizing with this action?

The Sierra Club objected to EPA authorizing the State-initiated changes that EPA has deemed minor without the State submitting a formal application for EPA authorization or providing the citation of authority which explains the basis for the absence of a formal application. The Sierra Club further asserted that the formal application would have provided the associated public participation processes. EPA responds to this comment as follows:

According to 40 CFR 271.21 *Procedures for revision of State Programs*—40 CFR 271.21(a) provides, ''Either EPA or the approved State may initiate program revision.'' Further, 40 CFR 271.21(b)(1) states ''The State shall submit a modified program description, . . . , or such other documents as EPA determines to be necessary under the circumstances.'' Under the circumstances of these revisions EPA has determined that the only documents deemed necessary are the Texas RCRA statutes and regulations. We determined this because State-initiated changes addressed in the proposed rule were corrections to technical errors in the State's regulations that did not impact substance of the State's authorized hazardous waste management program. Specifically, Texas amended 335.155(1) [analog to 40 CFR 264.77(a)] to correct an error in the internal reference by replacing ''264.56(j)'' with ''264.56(i). Texas also amended 335.261(b)(15) [analog to 40 CFR 264.77(a) and 273.8(a)(2)] to provide correct references to 40 CFR 273.8(a)(2) and 261.5. EPA deemed these corrections to be of a such a non-substantive/minor nature that submission of additional material was not necessary. The State's laws and regulations, as amended by these provisions, provide authority which remains equivalent to, and no less stringent than the corresponding Federal laws and regulations.

Based on EPA's responses to the comments received regarding the proposed authorization of the State-initiated changes, the EPA now makes a final decision that Texas' hazardous waste program revisions satisfy the requirements necessary to qualify for final authorization in accordance with 40 CFR 271.21(a). EPA will continue to implement and enforce Hazardous and Solid Waste Amendments of 1984 (HSWA) provisions for which the State is not authorized. EPA also retains its authority under RCRA sections 3007, 3008, 3013 and 7003 which include, among others, authority to: (1) Take enforcement actions regardless of whether the State has taken its own action, (2) enforce RCRA requirements and suspend or revoke permits; and (3) perform inspections, and require monitoring, tests, analyses or reports.

C. Amendments to 40 CFR 272.2201

In this final action, the EPA is incorporating by reference the Texas authorized hazardous waste program in subpart SS of 40 CFR part 272. Section 272.2201(c)(1) incorporates by reference Texas' authorized hazardous waste statutes and regulations. Section 272.2201 also references material which is not being incorporated by reference, but which the EPA considered in determining the adequacy of Texas' program. Section 272.2201(c)(2) references sections of the Texas statutes which provide the legal basis for the State's implementation of the hazardous waste management program. In addition, §§ 272.2201(c)(6), (7), and (8) reference the Memorandum of Agreement, the Attorney General's Statements, and the Program Description, respectively. These documents are evaluated as part of the approval process of the hazardous waste management program in accordance with subtitle C of RCRA but are not part of the material to be incorporated by reference.

State provisions that are ''broader in scope'' than the Federal program are not incorporated by reference in 40 CFR part 272. For reference and clarity, the EPA lists in 40 CFR 272.2201(c)(3) the Texas statutory and regulatory provisions that are ''broader in scope'' than the Federal program, and which are not part of the authorized program being incorporated by reference. While ''broader in scope'' provisions are not part of the authorized program and cannot be enforced by the EPA, the State may enforce such provisions under State law. At 40 CFR 272.2201(c)(4) and (5), EPA lists amendments to Texas regulations and Federal rules which are not part of the Texas authorized program.

The October 24, 2018 proposed rule provides details about the effect of Texas's codification on enforcement (See, Section III.D, 83 FR 53597) and on Federal requirements promulgated under the Hazardous and Solid Waste Amendments of 1984 (HSWA) (See Section III.F, 83 FR 53598).

1. Incorporation by Reference

In the **Federal Register** document published on October 24, 2018 (83 FR 53595), the EPA also proposed to codify the EPA's authorization of Texas' base hazardous waste management program and the State's revisions to that program. In this action, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Texas authorized hazardous waste statutes and regulations described in the amendments to 40 CFR 272.2201 set forth below. The EPA has made, and will continue to make, these materials generally available electronically through *http://www.regulations.gov* and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

2. Correction and Clarification

In this final rule, the EPA is making corrections and clarifying the language in 40 CFR 272.2201(c)(5) and the associated Table. The Table includes an incorrect entry for Withdrawal of the Emission Comparable Fuel Exclusion under RCRA (Checklist 224—amendments to 40 CFR 261.4(a)(16) and 261.38) (75 FR 33712, June 15, 2010). Texas adopted and was authorized for the Comparable Fuel exclusion as introduced by the Hazardous Waste Combustors Revised Standards final (63

FR 33782, June 19, 1998 (Revision Checklist 168); however, the State did not adopt, and was not authorized for the amendment to the Comparable Fuel exclusion published on June 15, 2010. Thus, EPA is correcting the § 272.2201(c)(5) Table to remove the third entry regarding the June 15, 2010 final rule (Revision Checklist 224). The EPA is also adding language to § 272.2201(c)(5) to clarify that EPA may bring enforcement action under RCRA section 3008 at facilities that do not comply with the terms of the court vacaturs. The EPA is also correcting a typographical error in the entry for Checklist 224 in the § 272.2201(c)(4)(iv) Table by replacing the **Federal Register** reference ''73 FR 33712'' with ''75 FR 33712.''

D. Administrative Requirements

This final action authorizes and codifies State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. For further information on how this authorization and codification comply with applicable executive orders and statutory provisions, please see the proposed rule published in the **Federal Register** (83 FR 53595, October 24, 2018).

The Congressional Review Act, 5 U.S.C. 801—808, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective April 10, 2020.

List of Subjects in 40 CFR Part 272

Environmental protection, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Intergovernmental relations, Water pollution control, Water supply.

Authority: This rule is issued under the authority of Section 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926,697(b).

Dated: March 25, 2020.

Kenley McQueen,

Regional Administrator, Region 6.

For the reasons set forth in the preamble, under the authority at 42 U.S.C. 6912(a), 6926, and 6974(b), the EPA is granting final authorization under 40 CFR part 271 to the State of Texas for State-initiated revisions to its hazardous waste program under the Resource Conservation and Recovery Act and is amending 40 CFR part 272 as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

■ 2. Revise § 272.2201 to read as follows:

§ 272.2201 Texas State-administered program: Final authorization.

(a) *History of the State of Texas authorization.* Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), the EPA granted Texas final authorization for the following elements as submitted to EPA in Texas' Base program application for final authorization which was approved by EPA effective on December 26, 1984. Subsequent program revision applications were approved effective on October 4, 1985, February 17, 1987, March 15, 1990, July 23, 1990, October 21, 1991, December 4, 1992, June 27, 1994, November 26, 1997, December 3, 1997, October 18, 1999, November 15, 1999, September 11, 2000, June 14, 2005, December 29, 2008, July 13, 2009, May 6, 2011, May 7, 2012, January 9, 2013, November 3, 2014, December 21, 2015, February 26, 2016, and April 10, 2020.

(b) *Enforcement authority.* The State of Texas has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State statutes and regulations*—(1) *Incorporation by reference.* The Texas statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Texas statutes and regulations that are incorporated by reference in this paragraph from Thomson Reuters, 610 Opperman Drive, Eagan, MN 55123; Phone: 1–888–728–7677; website: *http://legalsolutions.thomsonreuters.com.* You may inspect a copy at EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270, Phone number: (214) 665–8533, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(i) ''EPA-Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program'', dated December 2015.

(ii) [Reserved]

(2) *Legal basis.* The following provisions provide the legal basis for the State's implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Texas Health and Safety Code (THSC) Annotated, (Vernon, 2010, as amended by the 2015 Cumulative Annual Pocket Part, effective September 1, 2015); Chapter 361, The Texas Solid Waste Disposal Act (TSWDA), sections 361.002, 361.016, 361.017, 361.018, 361.0215(b)(2) and (b)(3), 361.023, 361.024, 361.029, 361.032, 361.033, 361.035, 361.036, 361.037(a), 361.061, 361.063, 361.0635, 361.064, 361.0641, 361.066(b) and (c), 361.0666, 361.067, 361.068, 361.069, 361.078, 361.079, 361.0791, 361.080, 361.081, 361.082 (except 361.082(a) and (f)), 361.083, 361.0833, 361.084, 361.085, 361.0861(c), 361.0871(b), 361.088, 361.0885, 361.089 (2015 Cumulative Annual Pocket Part), 361.090, 361.095(b) through (f), 361.096, 361.097, 361.098, 361.099(a), 361.100, 361.101, 361.102 through 361.109, 361.113, 361.114, 361.116, 361.271 (2015 Cumulative Annual Pocket Part), 361.272 through 361.275, 361.278, 361.301, 361.321(a) and (b), 361.321(c) (except the phrase ''Except as provided by Section 361.322(a)''), 361.321(d), 361.321(e) (except the phrase ''Except as provided by Section 361.322(e)''), 361.451, 361.501 through 361.506, and 361.509(a) introductory paragraph, (a)(11), (b), (c) introductory paragraph, and (c)(2); Chapter 371, Texas Used Oil

Collection, Management, and Recycling Act, sections 371.0025(b) and (c), 371.024(a), (c) and (d), 371.026(a) and (b), and 371.028.

(ii) Texas Water Code (TWC), as amended effective September 1, 2015: Chapter 5, sections 5.102 through 5.105, 5.112, 5.177, 5.351, 5.501 through 5.505, 5.509 through 5.512, 5.515, and 5.551 through 5.557; Chapter 7, sections 7.031, 7.032, 7.051(a), 7.052(a), 7.052(c) and (d), 7.053 through 7.062, 7.064 through 7.069, 7.075, 7.101, 7.102, 7.104, 7.105, 7.107, 7.110, 7.162, 7.163, 7.176, 7.187(a), 7.189, 7.190, 7.252(1), 7.351, 7.353; Chapter 26, sections 26.001(13), 26.011, 26.020 through 26.022, 26.039, and 26.341 through 26.367; and Chapter 27, sections 27.003, 27.017(a), 27.018(a)—(d), and 27.019.

(iii) Texas Government Code as amended effective September 1, 2015, section 311.027.

(iv) Texas Rules of Civil Procedure, as amended effective September 1, 2015, Rule 60.

(v) Texas Administrative Code (TAC), Title 30, Environmental Quality, 2015, as amended, effective through December 31, 2014:

(A) Chapter 10; Chapter 39, sections 39.5(g) and (h), 39.11, 39.13 (except (10)), 39.103 (except (f) and (h)), 39.105, 39.107, 39.109, 39.403(b)(1), 39.405(f)(1), 39.411 (except (b)(4)(B), (b)(10), (b)(11), and (b)(13)), 39.413 (except (10)), 39.420 (except (c) and (d)), 39.503 (except the reference to 39.405(h) in (d) introductory paragraph, and (g)), and 39.801 through 39.810;

(B) Chapter 50, sections 50.13, 50.19, 50.39, 50.113 (except (d)), 50.117(f), 50.119, 50.133, and 50.139;

(C) Chapter 55, sections 55.25(a) and (b), 55.27 (except (b)), 55.152(a)(3), 55.152(b), 55.154, 55.156 (except (d)—(g)), 55.201 (except as applicable to contested case hearings), and 55.211 (except as applicable to contested case hearings);

(D) Chapter 70, section 70.10;

(E) Chapter 281, sections 281.1 (except the clause ''except as provided by . . . Prioritization Process)''), 281.2 introductory paragraph and (4), 281.3(a) and (b), 281.5 (except the clause ''Except as provided by . . . Discharge Permits)'' and the phrases ''subsurface area drip dispersal systems'' and ''radioactive material'' in the introductory paragraph), 281.17(d) (except the references to radioactive material licenses), 281.17(e) and (f), 281.18(a) (except for the sentence ''For applications for radioactive . . . within thirty days.''), 281.19(a) (except the last sentence), 281.19(b) (except the phrase ''Except as provided in subsection (c) of this section,''), 281.20, 281.21(a) (except ''and 32'' and the phrase ''and the Texas Radiation Control Act.''), 281.21(b), 281.21(c) (except the phrase ''radioactive materials,'' in 281.21(c)(2)), 281.21(d), 281.22(a) (except the phrase ''For applications for radioactive . . . to deny the license.''), 281.22(b) (except the phrase ''or an injection well,'' in the first sentence and the phrase ''For underground injection wells . . . the same facility or activity.''), 281.23(a), and 281.24;

(F) Chapter 305, sections, 305.29, 305.30, 305.64(d) and (f), 305.66(c), 305.66(e) (except for the last sentence), 305.66(f) through (l), 305.123 (except the phrases ''and 32'' and ''and 401''), 305.125(1) and (3), 305.125(20), 305.127(1)(B)(i), 305.127(4)(A) and (C), 305.127 (6), 305.401 (except the text ''§ 55.21 of this title (relating to Requests for Contested Case Hearings, Public Comment)'' at (b), and 305.401(c)); and

(G) Chapter 335, sections 335.2(b), 335.43(b), 335.206, 335.391 through 335.393.

(3) *Related legal provisions.* The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(i) Texas Health and Safety Code (THSC) Annotated, (Vernon, 2010): Chapter 361, The Texas Solid Waste Disposal Act (TSWDA), sections 361.131 through 361.140; Chapter 371, Texas Used Oil Collection, Management, and Recycling Act, sections 371.021, 371.022, 371.024(e), 371.0245, 371.0246, 371.025, and 371.026(c).

(ii) Texas Administrative Code (TAC), Title 30, Environmental Quality, 2015, as amended, effective through December 31, 2014: Chapter 305, sections 305.53, 305.64(b)(4), and 305.69(b)(1)(A) (as it relates to the Application Fee); Chapter 335, sections 335.321 through 335.332, Appendices I and II, and 335.401 through 335.412.

(4) *Unauthorized State amendments and provisions.* (i) The following authorized provisions of the Texas regulations include amendments published in the Texas Register that are not approved by EPA. Such unauthorized amendments are not part of the State's authorized program and are, therefore, not Federally enforceable. Thus, notwithstanding the language in the Texas hazardous waste regulations incorporated by reference at paragraph (c)(1)(i) of this section, EPA will enforce the State provisions that are actually authorized by EPA. The effective dates of the State's authorized provisions are listed in the Table below. The actual State regulatory text authorized by EPA (*i.e.,* without the unauthorized amendments) is available as a separate document, *Addendum to the EPA-Approved Texas Regulatory and Statutory Requirements Applicable to the Hazardous Waste Management Program, December, 2015.* Copies of the document can be obtained from EPA Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270.

TABLE 1 TO PARAGRAPH (c)(4)(i)

State provision (December 31, 2014)	Effective date of authorized provision	Unauthorized State amendments	
		Texas Register reference	Effective date
335.6(a)	7/29/92	18 TexReg 2799	5/12/93
		22 TexReg 12060	12/15/97
		23 TexReg 10878	10/19/98
335.6(c) introductory paragraph	7/29/92	17 TexReg 8010	11/27/92
		20 TexReg 2709	4/24/95
		20 TexReg 3722	5/30/95
		21 TexReg 1425	3/1/96
		21 TexReg 2400	3/6/96
		22 TexReg 12060	12/15/97
		23 TexReg 10878	10/19/98
		26 TexReg 9135	11/15/01

TABLE 1 TO PARAGRAPH (c)(4)(i)—Continued

State provision (December 31, 2014)	Effective date of authorized provision	Unauthorized State amendments	
		Texas Register reference	Effective date
335.6(g)	7/29/92	18 TexReg 3814	6/28/93
		22 TexReg 12060	12/15/97
		23 TexReg 10878	10/19/98
335.24(b) introductory paragraph	3/1/96	21 TexReg 10983	11/20/96
		23 TexReg 10878	10/19/98
		38 TexReg 970	2/21/13
335.24(c) introductory paragraph	3/1/96	21 TexReg 10983	11/20/96
		23 TexReg 10878	10/19/98
		38 TexReg 970	2/21/13
335.45(b)	9/1/86	17 TexReg 5017	7/29/92
335.204(a)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(b)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(b)(6)	5/28/86	16 TexReg 6065	11/7/91
335.204(c)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(d)(1)	5/28/86	16 TexReg 6065	11/7/91
335.204(e)(6)	5/28/86	16 TexReg 6065	11/7/91

(ii) Texas has partially or fully adopted, but is not authorized to implement, the Federal rules that are listed in the following table. The EPA will continue to implement the Federal HSWA requirements for which Texas is not authorized until the State receives specific authorization for those requirements. The EPA will not enforce the non-HSWA Federal rules although they may be enforceable under State law. For those Federal rules that contain both HSWA and non-HSWA requirements, the EPA will enforce only the HSWA portions of the rules.

TABLE 2 TO PARAGRAPH (c)(4)(ii)

Federal requirement	**Federal Register** reference	Publication date
Clarification of Standards for Hazardous Waste LDR Treatment Variances (HSWA) (Checklist 162)	62 FR 64504	December 5, 1997.
Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions (HSWA) (Checklist 187).	64 FR 36365	June 8, 2000.
Zinc Fertilizers Made from Recycled Hazardous Secondary Materials (HSWA and Non-HSWA) (Checklist 200).	67 FR 48393	July 24, 2002.

(iii) The Federal rules listed in the table below are not delegable to States. Texas has adopted these provisions and left the authority to the EPA for implementation and enforcement.

TABLE 3 TO PARAGRAPH (c)(4)(iii)

Federal requirement	**Federal Register** reference	Publication date
Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision (HSWA) (Checklist 152).	61 FR 16290	April 12, 1996.
OECD Requirements; Export Shipments of Spent Lead-Acid Batteries (Non-HSWA) (Checklist 222)	75 FR 1236	January 8, 2010.

(iv) Texas has chosen not to adopt, and is not authorized to implement, the following optional Federal rules:

TABLE 4 TO PARAGRAPH (c)(4)(iv)

Federal requirement	**Federal Register** reference	Publication date
NESHAPS Second Technical Correction, Vacatur (Non-HSWA) (Checklist Rule 188.1)	66 FR 24270	May 14, 2001.
Storage, Treatment, Transportation and Disposal of Mixed Waste (Non-HSWA) (Checklist 191)	66 FR 27218	May 16, 2001.
Inorganic Chemical Manufacturing Waste Identification and Listing (HSWA/Non-HSWA) (Checklist Rule 195.1).	67 FR 17119	April 9, 2002.
Land Disposal Restrictions: National Treatment Variance to Designate New Treatment Subcategories for Radioactively Contaminated Cadmium, Mercury-Containing Batteries and Silver-Containing Batteries (HSWA) (Checklist 201).	67 FR 62618	October 7, 2002.

TABLE 4 TO PARAGRAPH (c)(4)(iv)—Continued

Federal requirement	Federal Register reference	Publication date
NESHAP: Surface Coating of Automobiles and Light-Duty Trucks (Non-HSWA) (Checklist 205)	69 FR 22601	April 26, 2004.
Revisions to the Definition of Solid Waste (Non-HSWA) (Checklist 219)	73 FR 64668	October 30, 2008.
Expansion of RCRA Comparable Fuel Exclusion (Non-HSWA) (Checklist 221)	73 FR 77954	December 19, 2008.
Withdrawal of the Emission Comparable Fuel Exclusion (Non-HSWA) (Checklist 224)	75 FR 33712	June 15, 2010.
Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents (Non-HSWA) (Checklist Rule 225).	75 FR 78918	December 17, 2010.

(5) *Vacated Federal rules.* Texas adopted and was authorized for the Federal rules listed in the Table below which have since been vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379 and 08–1144, respectively; June 27, 2014). The effect of the vacaturs on Texas is that the previously authorized comparable fuels and gasification rules from the State program are no longer be considered part of the Federally authorized program. Thus, EPA may bring enforcement actions under RCRA Section 3008 at facilities that do not comply with the RCRA hazardous waste regulations.

TABLE 5 TO PARAGRAPH (c)(5)

Federal requirement	Federal Register reference	Publication date
Hazardous Waste Combustors; Revised Standards (HSWA) (Checklist 168—40 CFR 261.4(a)(16) and 261.38 only).	63 FR 33782	June 19, 1998.
Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis Gas (Checklist 216—Definition of ''Gasification'' at 40 CFR 260.10 and amendment to 40 CFR 261.4(a)(12)(i)).	73 FR 57	January 2, 2008.

(6) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 6 and the State of Texas was signed by the Executive Director of the Texas Commission on Environmental Quality (TCEQ) on December 20, 2011, and by the EPA Regional Administrator on February 17, 2012. The 2012 Memorandum of Agreement was re-certified by the Executive Director of the TCEQ on March 26, 2015, and the EPA Regional Administrator on September 30, 2015, and is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Statement of legal authority.* ''Attorney General's Statement for Final Authorization'', signed by the Attorney General of Texas on May 22, 1984 and revisions, supplements, and addenda to that Statement dated November 21, 1986, July 21, 1988, December 4, 1989, April 11, 1990, July 31, 1991, February 25, 1992, November 30, 1992, March 8, 1993, January 7, 1994, August 9, 1996, October 16, 1996, as amended February 7, 1997, March 11, 1997, January 5, 1999, November 2, 1999, March 1, 2002, July 16, 2008, December 6, 2011, February 12, 2013, and June 10, 2016] are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(8) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Amend Appendix A to part 272 by revising the listing for ''Texas'' to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Texas

The statutory provisions include:

Texas Health and Safety Code (THSC) Annotated, (Vernon, 2010): Chapter 361, The Texas Solid Waste Disposal Act, sections 361.003 (except (3), (19), (27), (35), and (39)), 361.019(a), 361.0235, 361.066(a), 361.082(a) and (f), 361.086, 361.087, 361.0871(a), 361.094, 361.095(a), 361.099(b), and 361.110; Chapter 371, The Texas Used Oil Collection, Management, and Recycling Act, sections 371.003, 371.024(b), 371.026(d), and 371.041.

Copies of the Texas statutes that are incorporated by reference are available from Thomson Reuters, 610 Opperman Drive, Eagan, MN 55123; Phone: 1–888–728–7677; website: *http://legalsolutions.thomsonreuters.com.*

The regulatory provisions include:

Texas Administrative Code (TAC), Title 30, Environmental Quality, 2015, as amended, effective through December 31, 2014, and where indicated, amendments effective January 8, 2015, as published in the Texas Register on January 2, 2015 (40 TexReg 77); based on the proposed rule published August 22, 2014 (39 TexReg 6376). Please note that for some provisions, the authorized versions are found in the TAC, Title 30, Environmental Quality, as amended effective January 1, 1994, January 1, 1997, December 31, 1999, December 31, 2001, or December 31, 2012. Texas made subsequent changes to these provisions but these changes have not been authorized by EPA. Where the provisions are taken from regulations other than those effective December 31, 2014, notations are made below.

Chapter 3, Section 3.2(25) ''Person''; Chapter 20, Section 20.15; Chapter 35, Section 35.402(e); Chapter 37, Sections 37.1 through 37.81, 37.100 through 37.161, 37.200 through 37.281, 37.301 through 37.381, 37.400 through 37.411, 37.501 through 37.551, 37.601 through 37.671, and 37.6001 through 37.6041; Chapter 281, Section 281.3(c);

Chapter 305, Subchapter A—General Provisions, Sections 305.1(a) (except the reference to Chapter 401, relative to Radioactive Materials); 305.2 introductory paragraph (except the references to THSC sections 401.003 and 401.004, relative to Radioactive Materials and the reference to TWC 32.002); 305.2(1), (6), (11), (12), (14), (15), (19), (20), (24), (26), (27), (28), (31), (40), (41), and (42); 305.3;

Chapter 305, Subchapter C—Application for Permit or Post-Closure Order, Sections 305.41 (except the reference to Chapter 401, relative to Radioactive Materials and the reference to TWC Chapter 32); 305.42(a), (b), (d), and (f); 305.43(b); 305.44 (except (d)); 305.45 (except (a)(7)(I) and (J)); 305.47; 305.50(a) introductory paragraph through (a)(3) (except the last two sentences in 305.50(a)(2)); 305.50(a)(4) (December 31, 2012); 305.50(a)(5) through (a)(8); 305.50(a)(13) through (a)(16); 305.50(b); 305.51;

Chapter 305, Subchapter D—Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits, Sections 305.61; 305.62(a) (except the phrase in the first sentence ''§ 305.70 of this title . . . Solid Waste Class I Modifications'' and the fifth sentence ''If the permittee requests a modification of a municipal solid waste permit . . . § 305.70 of this title.''); 305.62(b); 305.62(c) introductory paragraph (except the phrase ''other than . . . subsection (i) of this section''); 305.62(c)(1); 305.62(c)(2) introductory paragraph; 305.62(c)(2)(A) (except the phrase ''except for Texas Pollutant Discharge Elimination System (TPDES) permits,''); 305.62(c)(2)(B) (except the phrase ''except for TPDES permits,''); 305.62(d) (except (d)(6)); 305.62(e) through (h); 305.63(a) (except the last sentence of (a)(3), and (a)(7)); 305.64(a); 305.64(b) (except (b)(4) and (b)(5)); 305.64(c) and (e); 305.64(g); 305.65; 305.66(a) (except (a)(7) through (a)(9)); 305.66(d); 305.67(a) and (b); 305.69(a); 305.69(b) (except the phrases ''Additional Contents of Application for an Injection Well Permit'' and ''Waste Containing Radioactive Materials; and Application Fee'' at (b)(1)(A)); 305.69(c); 305.69(d) (except (d)(7)); 305.69(e) through (h); 305.69(i)(3) and (i)(4); 305.69(j); 305.69(k) (except (k) A.8 through A.10);

Chapter 305, Subchapter F—Permit Characteristics and Conditions, Sections 305.121 (except the phrases ''radioactive material disposal'' and ''subsurface area drip dispersal systems''); 305.122 (except (e)); 305.124; 305.125 introductory paragraph; 305.125(2) and (4); 305.125(5) (except the second sentence); 305.125(6) through (8); 305.125(9) (except (9)(C)); 305.125(10) (except the phrases ''and 32'' and ''and 401.603''); 305.125(11) (except the phrase ''as otherwise required by Chapter 336 of this title'' relative to Radioactive Substances in (11)(B)); 305.125(12) through (19), and (21); 305.127 introductory paragraph; 305.127(1)(B)(iii); 305.127(1)(E) and (F); 305.127(2); 305.127(3)(A) (except the last two sentences); 305.127(3)(B) and (C); 305.127(4)(B); 305.127(5)(C); 305.128;

Chapter 305, Subchapter G—Additional Conditions for Hazardous and Industrial Solid Waste Storage, Processing, or Disposal Permits, Sections 305.141 through 305.145; 305.150;

Chapter 305, Subchapter I—Hazardous Waste Incinerator Permits, Sections 305.171 through 305.176;

Chapter 305, Subchapter J—Permits for Land Treatment Demonstrations Using Field Tests or Laboratory Analyses, Sections 305.181 through 305.184;

Chapter 305, Subchapter K—Research, Development, and Demonstration Permits, Sections 305.191 through 305.194;

Chapter 305, Subchapter L—Groundwater Compliance Plan, Section 305.401(c);

Chapter 305, Subchapter Q—Permits for Boilers and Industrial Furnaces Burning Hazardous Waste, Sections 305.571 through 305.573;

Chapter 305, Subchapter R—Resource Conservation and Recovery Act Standard Permits For Storage And Treatment Units, Sections 305.650 through 305.661;

Chapter 324, Subchapter A—Used Oil Recycling, Sections 324.1; 324.2 (except 324.2(2)); 324.3 (except 324.3(5)); 324.4; 324.6; 324.7; 324.11 through 324.16; 324.21; 324.22(d)(3);

Chapter 335, Subchapter A—Industrial Solid Waste and Municipal Hazardous Waste in General, Sections 335.1 introductory paragraph through (4), (6) through (12), (16) through (19), (23), (24), (26) through (30), (33), (35) through (38), (40) through (47), (48) (except for the phrase ''or is used for neutralizing the pH of non-hazardous industrial solid waste''), (49), (50), (51), (53) through (58), (60) through (64), (66), (67), (70) through (79), (81) through (115) (except the phrase ''solid waste or'' at (89), (91), (92), (94), (95), and (100)), (117) (except the phrase ''solid waste or''), (118), (119), (123) through (128) (except the phrase ''solid waste or'' at (124)), (130), (132) through (136), (138) through (140)(A)(iii), (140)(A)(iv) introductory paragraph (except the last sentence), (140)(B) through (G) (except the phrase ''Except for materials described in subparagraph (H) of this paragraph.'' at (D) and (G) introductory paragraphs),), (140)(I) and (J), (141), (142), (144) through (154) (except the phrase ''solid waste or'' at (147), (150) and (152)), (155) through (159) (except the phrase ''or industrial solid'' at (155), (158), and (159)), (161) through (170) (except the phrase ''solid waste or'' at (164)), (171) (except the phrase ''or industrial solid'' at (171)(B)), (172) through (174), and (175) (except the phrase ''solid waste or'') (40 TexReg 77, effective January 8, 2015); 335.2 (except (b), (d), (h), (k) and (n)); 335.4; 335.5 (except (d)); 335.6(a); 335.6(b) (January 1, 1997); 335.6(c); 335.6(d) (except the last sentence) (January 1, 1994); 335.6(e) (January 1, 1994); 335.6(f) and (g); 335.6(h) (except the third sentence); 335.6(i) and (j); 335.7; 335.8(a)(1) and (2); 335.9(a) (except (a)(2) and (3)); 335.9(a)(2) and (3) (January 1, 1997); 335.9(b) (January 1, 1994); 335.10(a) and (b); 335.11(a); 335.12(a); 335.13(a) (January 1, 1997); 335.13(c) and (d) (January 1, 1994); 335.13(e) and (f) (January 1, 1997); 335.13(g) (January 1, 1994); 335.13(k); 335.14; 335.15 introductory paragraph (January 1, 1994); 335.15(1); 335.15(3) (except two references to ''Class 1 Waste'' at introductory paragraph); 335.17(a); 335.18(a); 335.19 (except 335.19(d)); 335.20 through 335.23(1); 335.23(2) (January 1, 1994); 335.24(a) through (f); 335.24(m) and (n); 335.29 through 335.31;

Chapter 335, Subchapter B—Hazardous Waste Management General Provisions, Sections 335.41(a) through (c); 335.41(d) introductory paragraph and (d)(2) through (d)(4); 335.41(d)(1) (December 31, 2001); 335.41(e) through (j); 335.43(a); 335.44; 335.45; 335.47 (except (b) and second sentence in (c)(3)); 335.47(b) (December 31, 1999);

Chapter 335, Subchapter C—Standards Applicable to Generators of Hazardous Waste, Sections 335.61 (except (f)); 335.62; 335.63; 335.65 through 335.68; 335.69 (except ''and (n)'' in (a) introductory paragraph, (i), and (n)); 335.70; 335.71; 335.73 through 335.75; 335.76 (except (h)); 335.77; 335.78(a); 335.78(b) (January 1, 1997); 335.78(c); 335.78(d) (except (d)(2)); 335.78(e) introductory paragraph (January 1, 1997); 335.78(e)(1) and (2); 335.78(f) (except 335.78(f)(2)); 335.78(f)(2) (January 1, 1997); 335.78(g) (except (g)(2)); 335.78(g)(2) (January 1, 1997); 335.78(h) through (j); 335.79;

Chapter 335, Subchapter D—Standards Applicable to Transporters of Hazardous Waste, Sections 335.91 (except (e)); 335.92; 335.93 (except (e)); 335.93(e) (December 31, 1999); 335.94;

Chapter 335, Subchapter E—Interim Standards for Owners and Operators of Hazardous Waste Treatment, Storage, or Disposal Facilities, Sections 335.111; 335.112 (except (a)(17)); 335.113; 335.115 through 335.128;

Chapter 335, Subchapter F—Permitting Standards for Owners and Operators of Hazardous Waste Treatment, Storage, or Disposal Facilities, Sections 335.151 through

335.153; 335.155 (except 335.155(1)); 335.155(1) (40 TexReg 77, effective January 8, 2015 (August 22, 2014 proposed rule (39 TexReg 6376))); 335.156 through 335.179;

Chapter 335, Subchapter G—Location Standards for Hazardous Waste Storage, Processing, or Disposal, Sections 335.201(a) (except (a)(3)); 335.201(c); 335.202 introductory paragraph; 335.202(2), (4), (9) through (11), (13), and (15) through (18); 335.203; 335.204(a) introductory paragraph through (a)(5); 335.204(b)(1) through (6); 335.204(c)(1) through (5); 335.204(d)(1) through (5); 335.204(e) introductory paragraph; 335.204(e)(1) introductory paragraph (except the phrase ''Except as . . . (B) of this paragraph,'' and the word ''event'' at the end of the paragraph); 335.204(e)(2) through (e)(7); 335.204(f); 335.205(a) introductory paragraph through (a)(2) and (e);

Chapter 335, Subchapter H—Standards for the Management of Specific Wastes and Specific Types of Facilities, Sections 335.211(a) (40 TexReg 77, effective January 8, 2015); 335.211(b) and (c); 335.212 through 335.214; 335.221 through 335.225; 335.241(except (b)(4)); 335.251; 335.261 (except (b) introductory paragraph, (b)(6), (b)(15) and (e)); 335.261(b) introductory paragraph, (b)(6), and (b)(15) (40 TexReg 77, effective January 8, 2015 (August 22, 2014 proposed rule (39 TexReg 6376))); 335.271; 335.272;

Chapter 335, Subchapter O—Land Disposal Restrictions, Section 335.431 (except (c)(1); 335.431(c)(1) (39 TexReg 6376, effective August 22, 2014 (August 22, 2014 proposed rule (39 TexReg 6376)));

Chapter 335, Subchapter R—Waste Classification, Sections 335.504 (except 335.504(1)); 335.504(1) (40 TexReg 77, effective January 8, 2015 (August 22, 2014 proposed rule (39 TexReg 6376)));

Chapter 335, Subchapter U, Standards For Owners And Operators Of Hazardous Waste Facilities Operating Under A Standard Permit, Sections 601 and 602.

Copies of the Texas regulations that are incorporated by reference are available from Thomson Reuters, 610 Opperman Drive, Eagan, MN 55123; Phone: 1–888–728–7677; website: *http://legalsolutions.thomsonreuters.com.*

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 328

[Docket ID FEMA–2020–0018]

RIN 1660–AB01

Prioritization and Allocation of Certain Scarce or Threatened Health and Medical Resources for Domestic Use

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Temporary final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) is issuing a temporary rule to allocate certain scarce or threatened materials for domestic use, so that these materials may not be exported from the United States without explicit approval by FEMA. The rule covers five types of personal protective equipment (PPE), outlined below. While this rule remains in effect, and subject to certain exemptions stated below, no shipments of such designated materials may leave the United States without explicit approval by FEMA.

DATES: *Effective date:* This rule is effective from April 7, 2020 until August 10, 2020.

ADDRESSES: You may review the docket by searching for Docket ID FEMA–2020–0018, via the Federal eRulemaking Portal: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Daniel McMasters, Office of Policy and Program Analysis, 202–709–0661, *FEMA-DPA@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. The Current COVID–19 Pandemic

COVID–19 is a communicable disease caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV–2), that was first identified as the cause of an outbreak of respiratory illness that began in Wuhan, Hubei Province, People's Republic of China. The virus is thought to be transmitted primarily by person-to-person contact through respiratory droplets produced when an infected person coughs, sneezes, or talks. Some recent studies have suggested that COVID–19 may be spread by people who are not showing symptoms. It also may be possible that a person can get COVID–19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes. Older adults and people of all ages with underlying medical conditions, particularly if not well controlled, are at higher risk for more serious COVID–19 illness.[1]

On January 30, 2020, the Director-General of the World Health Organization (WHO) declared that the outbreak of COVID–19 is a Public Health Emergency of International Concern under the International Health Regulations.[2] The following day, the Secretary of Health and Human Services (HHS) declared COVID–19 a public health emergency under Section 319 of the Public Health Service (PHS) Act.[3] On March 11, 2020, the WHO declared COVID–19 a pandemic. On March 13, 2020, the President issued a Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak under sections 201 and 301 of the National Emergencies Act, 50 U.S.C. 1601 *et seq.,* and consistent with section 1135 of the Social Security Act, 42 U.S.C. 1320b–5.[4] On March 13, 2020, the President declared a nationwide emergency under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, authorizing FEMA to provide assistance for emergency protective measures to respond to the COVID–19 pandemic.[5]

As of April 7, 2020, there were over 333,000 cases of COVID–19 in the United States, resulting in over 9,500 deaths due to the disease, with new cases being reported daily. Worldwide, there have been over 1.28 million confirmed cases, resulting in over 72,600 deaths.[6] At this time, there is no vaccine that can prevent infection with COVID–19, nor is there currently any FDA-approved post-exposure

[1] Information obtained from *https://www.coronavirus.gov* (accessed April 2, 2020).

[2] Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (2019-nCoV) (January 30, 2020), *available at https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov).*

[3] HHS, ''Determination that a Public Health Emergency Exists,'' *available at https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx* (Jan. 31, 2020).

[4] ''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/.*

[5] COVID–19 Emergency Declaration *available at https://www.fema.gov/news-release/2020/03/13/covid-19-emergency-declaration* (accessed April 6, 2020).

[6] Information obtained from *https://www.who.int/* (accessed April 7, 2020).

prophylaxis for people who may have been exposed to COVID–19. Treatment is currently limited to supportive (or palliative) care for patients who need it. Clinical management for hospitalized patients with COVID–19 is focused on supportive care for complications, including supplemental oxygen and advanced organ support for respiratory failure, septic shock, and multi-organ failure.[7]

Within the United States, widespread transmission of COVID–19 has occurred. Widespread transmission of COVID–19 has resulted and will continue to result in large numbers of people needing medical care at the same time. Public health and healthcare systems may become overloaded, with elevated rates of hospitalizations and deaths, as well as elevated demand for PPE, including the PPE covered by this rule.

B. Legal Authorities

FEMA is issuing this temporary rule as part of its response to the COVID–19 pandemic. The rule is issued pursuant to the following authorities, among others:

- The Defense Production Act of 1950, as amended (''DPA'' or ''the Act''), and specifically sections 101 and 704 of the Act, 50 U.S.C. 4511, 4554;
- Executive Order 13909, 85 FR 16227 (Mar. 23, 2020);
- Executive Order 13910, 85 FR 17001 (Mar. 26, 2020);
- Executive Order 13911, 85 FR 18403 (Apr. 1, 2020);
- DHS Delegation Number 09052 Rev. 00.1, ''Delegation of Defense Production Act Authority to the Administrator of the Federal Emergency Management Agency'' (Apr. 1, 2020); and
- The Presidential Memorandum on Allocating Certain Scarce or Threatened Health and Medical Resources to Domestic Use (April 3, 2020).[8]

FEMA describes each authority in turn. The President has broadly delegated authority to make determinations and take action with respect to health and medical resources for COVID–19 response under Section 101 of the DPA to the Secretary of Homeland Security in Executive Order 13911. This authority has in turn been delegated to the FEMA Administrator in DHS Delegation 09052, Rev. 00.1 (Apr. 1, 2020).

First, under subsection 101(a) of the Act, 50 U.S.C. 4511(a), the President may (1) require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance. The President may also (2) allocate materials, services, and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense. FEMA refers to these authorities as relating to ''priority ratings'' and ''allocation,'' respectively.

Under subsection 101(b) of the Act, 50 U.S.C. 4511(b), the President may not use the aforementioned authorities to control the general distribution of any material in the civilian market unless the President finds (1) that such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship.

Under subsection 101(d) of the Act, 50 U.S.C. 4511(d), the head of each Federal agency to which the President delegates authority under section 101 of the Act (1) shall issue, and annually review and update whenever appropriate, final rules, in accordance with 5 U.S.C. 553, that establish standards and procedures by which the priorities and allocations authority under section 101 is used to promote the national defense, under both emergency and nonemergency conditions; and (2) as appropriate and to the extent practicable, consult with the heads of other Federal agencies to develop a consistent and unified Federal priorities and allocations system.[9]

Second, on March 18, 2020, the President signed Executive Order 13909, which delegated to the Secretary of HHS authority under the DPA for the prioritization and allocation of health and medical resources to respond to the spread of COVID–19. The President determined that to ensure that our healthcare system is able to surge capacity and capability to respond to the spread of COVID–19, it is critical that all health and medical resources needed to respond to the spread of COVID–19 are properly distributed to the Nation's healthcare system and others that need them most at this time. The President found that health and medical resources needed to respond to the spread of COVID–19, including personal protective equipment and ventilators, meet the criteria specified in section 101(b) of the Act (50 U.S.C. 4511(b)).[10]

Third, on March 23, 2020, the President signed Executive Order 13910, in which the President delegated to the Secretary of HHS the authority under section 102 of the Act to prevent hoarding and price gouging with respect to health and medical resources necessary to respond to the spread of COVID–19. On March 25, 2020, the Secretary of Health and Human Services designated under section 102 of the Act 15 categories of health and medical resources as scarce materials or materials the supply of which would be threatened by accumulation in excess of the reasonable demands of business, personal, or home consumption, or for the purpose of resale at prices in excess of prevailing market prices (''scarce or threatened materials''). *See* 85 FR 17592 (Mar. 30, 2020). These designated items include certain PPE materials that are the subject of this rulemaking.

Fourth, on March 27, 2020, the President signed Executive Order 13911, which (among other things) delegated to

[7] Information obtained from *https://www.coronavirus.gov* (accessed April 7, 2020).

[8] *See* Memorandum on Allocating Certain Scarce or Threatened Health and Medical Resources to Domestic Use for the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Administrator of the Federal Emergency Management Agency (Apr. 3, 2020), *https://www.whitehouse.gov/presidential-actions/memorandum-allocating-certain-scarce-threatened-health-medical-resources-domestic-use/* (last visited Apr. 5, 2020).

[9] FEMA has not yet issued comprehensive regulations on its implementation of section 101 of the Act. As noted below, FEMA was only recently delegated authority under section 101 of the Act. As described in greater detail below, this temporary final rule implements section 101(a) of the Act and related authority for a specific purpose and for a limited period of time. FEMA anticipates issuing comprehensive regulations under section 101 of the Act in the near future. In addition to section 101 of the Act, this rule implements FEMA's broad delegated authority under section 704 of the Act, 50 U.S.C. 4554, to prescribe such regulations and issue such orders as FEMA may determine appropriate to carry out its delegated authorities under the Act. The President has delegated this authority to the Secretary of Homeland Security under sections 2 and 5 of Executive Order 13911, who in turn delegated it to the Administrator of FEMA in DHS Delegation 09052, Rev. 00.1 (Apr. 1, 2020).

[10] The Executive Order delegates to the Secretary of Health and Human Services the President's authority under section 101 of the Act, 50 U.S.C. 4511, including the authority to identify additional specific health and medical resources that meet the criteria of section 101(b). The Executive Order allows the Secretary of Health and Human Services, using the delegated authority under section 101 of the Act, to determine, in consultation with the Secretary of Commerce and the heads of other executive departments and agencies as appropriate, the proper nationwide priorities and allocation of all health and medical resources needed to respond to the spread of COVID–19 within the United States.

the Secretary of Homeland Security the President's authority under section 101 of the Act with respect to health and medical resources needed to respond to the spread of COVID–19 within the United States. The Executive Order provides that the Secretary of Homeland Security may use the authority under section 101 of the Act to determine, in consultation with the heads of other executive departments and agencies as appropriate, the proper nationwide priorities and allocation of health and medical resources, including by controlling the distribution of such materials (including applicable services) in the civilian market, for responding to the spread of COVID–19 within the United States.[11] The Secretary of Homeland Security has delegated his authorities under Executive Order 13911 to FEMA. *See* DHS Delegation 09052, Rev. 00.1 (Apr. 1, 2020).

Finally, on April 3, 2020, the President signed a Memorandum on Allocating Certain Scarce or Threatened Health and Medical Resources to Domestic Use. The Memorandum reaffirmed the delegations and findings contained in Executive Orders 13909, 13910, and 13911, including that health and medical resources needed to respond to the spread of COVID–19, including personal protective equipment (PPE) and ventilators, meet the criteria specified in section 101(b) of the Act, *i.e.,* that (1) such material is a scarce and critical material essential to the national defense, and (2) that the requirements of the national defense for such material cannot otherwise be met without creating a significant dislocation of the normal distribution of such material in the civilian market to such a degree as to create appreciable hardship. The President further stated that to ensure that these scarce or threatened PPE materials remain in the United States for use in responding to the spread of COVID–19, it is the policy of the United States to prevent domestic brokers, distributors, and other intermediaries from diverting such material overseas.

In furtherance of such policy, the President directed that the Secretary of Homeland Security, through the FEMA Administrator, and in consultation with the Secretary of HHS, shall use any and all authority available under section 101 of the Act to allocate to domestic use, as appropriate, the following scarce or threatened materials designated by the Secretary of HHS under Section 102 of the DPA:

- N95 Filtering Facepiece Respirators, including devices that are disposable half-face-piece non-powered air-purifying particulate respirators intended for use to cover the nose and mouth of the wearer to help reduce wearer exposure to pathogenic biological airborne particulates;
- Other Filtering Facepiece Respirators (*e.g.,* those designated as N99, N100, R95, R99, R100, or P95, P99, P100), including single-use, disposable half-mask respiratory protective devices that cover the user's airway (nose and mouth) and offer protection from particulate materials at an N95 filtration efficiency level per 42 CFR 84.181;
- Elastomeric, air-purifying respirators and appropriate particulate filters/cartridges;
- PPE surgical masks, including masks that cover the user's nose and mouth and provide a physical barrier to fluids and particulate materials; and
- PPE gloves or surgical gloves, including those defined at 21 CFR 880.6250 (exam gloves) and 878.4460 (surgical gloves) and such gloves intended for the same purposes.

Pursuant to this Memorandum, and with the authority delegated to the Secretary of Homeland Security in E.O. 13911 and re-delegated to the FEMA Administrator in DHS Delegation 09052 Rev. 00.1, FEMA now issues this allocation order as a temporary rule.

II. Provisions of the Temporary Final Rule

Following consultation with the Secretary of HHS; pursuant to the President's direction; and as an exercise of the Administrator's priority order, allocation, and regulatory authorities under the Act, the Administrator has determined that the scarce or threatened materials identified in the April 3, 2020 Presidential Memorandum (''covered materials'') shall be allocated for domestic use, and may not be exported from the United States without explicit approval by FEMA. *See* new 44 CFR 328.102(a).

The rule is necessary and appropriate to promote the national defense with respect to the covered materials because the domestic need for them exceeds the supply. Under this temporary rule, before any shipments of such covered materials may leave the United States, CBP will detain the shipment temporarily, during which time FEMA will determine whether to return for domestic use, issue a rated order for, or allow the export of part or all of the shipment under section 101(a) of the Act, 50 U.S.C. 4511(a). FEMA will make such a determination within a reasonable time of being notified of an intended shipment and will make all decisions consistent with promoting the national defense. *See* new 44 CFR 328.102(b). FEMA will work to review and make determinations quickly and will endeavor to minimize disruptions to the supply chain.

In determining whether it is necessary or appropriate to promote the national defense to purchase covered materials, or allocate materials for domestic use, FEMA may consult other agencies and will consider the totality of the circumstances, including the following factors: (1) The need to ensure that scarce or threatened items are appropriately allocated for domestic use; (2) minimization of disruption to the supply chain, both domestically and abroad; (3) the circumstances surrounding the distribution of the materials and potential hoarding or price-gouging concerns; (4) the quantity and quality of the materials; (5) humanitarian considerations; and (6) international relations and diplomatic considerations.

This rule contains an exemption that the Administrator has determined to be necessary or appropriate to promote the national defense. *See* new 44 CFR 328.102(c). Specifically, the Administrator has determined that FEMA will not purchase covered materials from shipments made by or on behalf of U.S. manufacturers with continuous export agreements with customers in other countries since at least January 1, 2020, so long as at least 80 percent of such manufacturer's domestic production of covered materials, on a per item basis, was distributed in the United States in the preceding 12 months. The Administrator decided that this exemption is necessary or appropriate to promote the national defense because it would limit the impact of this order on pre-existing commercial relationships, in recognition of the importance of these commercial relationships to the international supply chain, and for humanitarian reasons, in consideration of the global nature of the COVID–19 pandemic. If FEMA determines that a shipment of covered materials falls within this exemption, such materials may be transferred out of the United States without further review by FEMA, provided that the Administrator may waive this exemption and fully review shipments of covered materials subject to this exemption for further action by FEMA, if the Administrator determines that doing so is necessary or appropriate

[11] The Executive Order also delegated to the Secretary of Homeland Security the authority under section 102 of the Act to prevent hoarding and price gouging with respect to such resources, and requires that before exercising the authority under section 102 of the Act, the Secretary of Homeland Security shall consult with the Secretary of Health and Human Services.

to promote the national defense. FEMA may develop additional guidance regarding which exports are covered by this exemption, and encourages manufacturers to contact FEMA with specific information regarding their status under this exemption.

The Administrator may establish, in his discretion, additional exemptions that he determines are necessary or appropriate to promote the national defense and will announce any such exemptions by notice in the **Federal Register**.

FEMA will implement this rule with the cooperation and assistance of other U.S. Government agencies, including CBP, and will work with manufacturers, brokers, distributors, exporters, and shippers to ensure that the applicable requirements are carried out. Any covered materials intended for export may be detained by CBP while FEMA conducts its review of the shipment. FEMA will review the shipment and provide notification as soon as possible regarding the disposition of the covered materials under this order, provided that any goods that have been detained by CBP and are subsequently made subject to a DPA-rated order will be consigned to FEMA pending further distribution or agency direction. FEMA may provide additional guidance regarding the application of any exemptions to this temporary rule, as appropriate.

FEMA may conduct such investigations and issue such requests for information as may be necessary for the enforcement of the Act, including this rule. *See* new 44 CFR 328.104(a); *see also* section 705 of the Act, 50 U.S.C. 4555; Executive Order 13911, 85 FR 18403 (Apr. 1, 2020). FEMA may seek an injunction or other order whenever, in the Administrator's judgment, a person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the Act or any rule or order issued thereunder. *See* new 44 CFR 328.104(b); *see also* section 706 of the Act, 50 U.S.C. 4556. In addition to an injunction, failure to comply fully with this rule is a crime punishable by a fine of not more than $10,000 or imprisonment for not more than one year, or both. *See* new 44 CFR 328.104(c); *see also* section 103 of the Act, 50 U.S.C. 4513. In addition, pursuant to 18 U.S.C. 554, whoever fraudulently or knowingly exports or sends from the United States, or attempts to export or send from the United States, any merchandise, article, or object contrary to any U.S. law or regulation, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise, article, or object, prior to exportation, knowing the same to be intended for exportation contrary to any U.S. law or regulation, faces up to 10 years' imprisonment, a fine, or both, if convicted.

At any point in time, and to the extent consistent with United States policy, the FEMA Administrator may determine additional materials to be subject to this allocation order. Upon a determination under section 101(b) of the DPA that an additional material is a scarce and critical material essential for national defense, and that being allocated to domestic use under this allocation order is the only way to meet national defense requirements without significant disruption to the domestic markets, the Administrator will include these additional materials in this allocation order, and will provide notification of this decision through publication in the **Federal Register.**

III. Regulatory Procedure and Analyses

A. Temporary Rule With Immediate Effective Date

Agency rulemaking is generally governed by the agency rulemaking provisions of the Administrative Procedure Act (APA). *See* 5 U.S.C. 553. Such provisions generally require that, unless the rule falls within one of a number of enumerated exceptions, or unless another statute exempts the rulemaking from the requirements of the APA, FEMA must publish a notice of proposed rulemaking in the **Federal Register** that provides interested persons an opportunity to submit written data, views, or arguments, prior to finalization of regulatory requirements. Section 553(b)(B) authorizes a department or agency to dispense with the prior notice and opportunity for public comment requirement when the agency, for ''good cause,'' finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest.

This rule is exempt from the APA under section 709(a) of the Act, 50 U.S.C. 4559(a). Instead, this rule is issued subject to the provisions of section 709(b). Pursuant to section 709(b)(2) of the Act, the Administrator has concluded, based on the facts related to the COVID–19 pandemic, which already have been summarized in this document, that, with respect to this temporary rule, urgent and compelling circumstances make compliance with the notice and comment requirements of section 709(b)(1) of the Act, 50 U.S.C. 4559(b)(1), impracticable. If final regulations become necessary, an opportunity for public comment will be provided for not less than 30 days before such regulations become final, pursuant to section 709(b)(2)(C) of the Act, 50 U.S.C. 4559(b)(2)(C).

Furthermore, the same facts that warrant waiver under section 709(b)(2) of the Act would constitute good cause for FEMA to determine, under the APA, that notice and public comment thereon are impractical, unnecessary, or contrary to the public interest, and that the temporary rule should become effective upon display at the **Federal Register**.

As the President has noted, although the Federal Government, along with State and local governments, have taken preventative and proactive measures to slow the spread of the virus SARS-CoV–2, and the disease it causes, COVID–19, and to treat those affected. The spread of COVID–19 within the Nation's communities threatens to strain the Nation's healthcare systems. It is imperative that health and medical resources needed to respond to the spread of COVID–19, including the PPE affected by this rule, are allocated for domestic use as appropriate. This temporary rule is needed to appropriately allocate scarce or threatened items for domestic use.

The measures described in this rule are being issued on a temporary basis. This temporary rule will cease to be in effect on August 10, 2020.

B. Executive Orders 12866 and 13563

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, and public health and safety effects; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a regulation (1) having an annual effect on the economy of $100 million or more in any one year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering

the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The Office of Management and Budget has designated this temporary rule as an economically significant regulatory action. Given that the temporary rule is a significant regulatory action, FEMA proceeds under the emergency provision of Executive Order 12866, section 6(a)(3)(D) based on the need for immediate action, as described above.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule that the agency issues 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 agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604.

This is neither a proposed rule, nor a final rule that the agency has issued under 5 U.S.C. 553 of this title after being required by that section or any other law to publish a general notice of proposed rulemaking. This is a temporary rule issued without a prior proposed rule, under the separate authority of the Defense Production Act of 1950. Accordingly, a regulatory flexibility analysis is not required.

D. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), 2 U.S.C. 1532, requires that covered agencies prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. Currently, that threshold is approximately $172 million. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires covered agencies to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. DHS has determined that this rule is not expected to result in expenditures by State, local, and tribal governments, or by the private sector, of $172 million or more in any one year. This rule imposes no requirements on State, local, and tribal governments and, therefore, cannot require them to expend any funds, let alone $172 million. To the extent that this rule affects the private sector, it only prohibits conduct, namely certain exports. It does not require any private sector expenditures within the meaning of the Unfunded Mandates Act. Further, the rule is excluded from the Unfunded Mandates Act under 2 U.S.C. 1503(4) and (5).

E. National Environmental Policy Act (NEPA)

Under the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.,* an agency must prepare an environmental assessment or environmental impact statement for any rulemaking that significantly affects the quality of the human environment. FEMA has determined that this rulemaking does not significantly affect the quality of the human environment and consequently has not prepared an environmental assessment or environmental impact statement.

Rulemaking is a major Federal action subject to NEPA. Categorical exclusion A3 included in the list of exclusion categories at Department of Homeland Security Instruction Manual 023–01–001–01, Revision 01, Implementation of the National Environmental Policy Act, Appendix A, issued November 6, 2014, covers the promulgation of rules, issuance of rulings or interpretations, and the development and publication of policies, orders, directives, notices, procedures, manuals, and advisory circulars if they meet certain criteria provided in A3(a–f). This interim final rule meets Categorical Exclusion A3(a), ''Those of a strictly administrative or procedural nature''.

F. Executive Order 13132: Federalism

This rule has been reviewed under Executive Order 13132, Federalism, 64 FR 43255 (August 4, 1999). That Executive Order imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. DHS has determined that this temporary rule will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of Government. Furthermore, there are no provisions in this rule that impose direct compliance costs on State and local governments. Accordingly, DHS believes that the rule does not warrant additional analysis under Executive Order 13132.

G. Congressional Review Act

Under the Congressional Review of Agency Rulemaking Act (CRA), 5 U.S.C. 801–808, before a rule can take effect, the Federal agency promulgating the rule must: Submit to Congress and to the Government Accountability Office (GAO) a copy of the rule; a concise general statement relating to the rule, including whether it is a major rule; the proposed effective date of the rule; a copy of any cost-benefit analysis; descriptions of the agency's actions under the Regulatory Flexibility Act and the Unfunded Mandates Reform Act; and any other information or statements required by relevant executive orders.

FEMA has sent this rule to the Congress and to GAO pursuant to the CRA. The Office of Information and Regulatory affairs has determined that this rule is a ''major rule'' within the meaning of the CRA. As this rule is being promulgated under the good cause exception to notice and comment under the Administrative Procedure Act, there is not a required delay in the effective date. *See* 5 U.S.C. 808.

List of Subjects in 44 CFR Part 328

Administrative practice and procedure, Business and industry, Government contracts, Health or medical resource, Hoarding, Investigations, Materials, National defense, Scarce materials, Strategic and critical materials, Threatened materials.

Accordingly, for the reasons set forth in the preamble, and effective from April 7, 2020 until August 10, 2020, chapter I of title 44 of the Code of Federal Regulations is amended by adding part 328 to read as follows:

PART 328—COVID–19 ALLOCATION ORDERS AND PRIORITY ORDER REVIEW UNDER THE DEFENSE PRODUCTION ACT

Sec.

Authority: Sections 101 *et seq.* of the Defense Production Act of 1950, 50 U.S.C. 4511, *et seq.;* Executive Order 13909, 85 FR 16227 (Mar. 23, 2020); Executive Order 13911, 85 FR 18403 (Apr. 1, 2020); DHS Delegation 09052, Rev. 00.1 (Apr. 1, 2020); Presidential Memorandum on Allocating Certain Scarce or Threatened Health and Medical Resources to Domestic Use (April 3, 2020).

§ 328.101 Basis and purpose.

(a) *Basis.* These rules are issued pursuant to section 101 of the Defense Production Act of 1950, as amended, 50

U.S.C. 4511, and complementary authorities, including such authorities as are contained in subchapter III of chapter 55 of title 50, United States Code (50 U.S.C. 4554, 4555, 4556, and 4559), which have been delegated to FEMA.

(b) *Purpose.* The purpose of these rules is to aid the response of the United States to the spread of COVID–19 by ensuring that scarce or threatened health and medical resources are appropriately allocated for domestic use.

§ 328.102 Requirements.

(a) *Allocation Order and Requirement for the Administrator's Approval.* All shipments of covered materials, as designated in § 328.103, shall be allocated for domestic use, and may not be exported from the United States without explicit approval by FEMA.

(b) *Procedures.* U.S. Customs and Border Protection (CBP), in coordination with such other officials as may be appropriate, will notify FEMA of an intended export of covered materials. CBP must temporarily detain any shipment of such covered materials, pending the Administrator's determination whether to return for domestic use or issue a rated order for part or all of the shipment, pursuant to the Administrator's delegated authorities. The Administrator will make such a determination within a reasonable timeframe after notification of an intended export.

(c) *Administrator's Determination.* In making the determination described in paragraph (b) of this section, the Administrator may consult other agencies and will consider the totality of the circumstances, including the following factors:

(1) The need to ensure that scarce or threatened items are appropriately allocated for domestic use;

(2) minimization of disruption to the supply chain, both domestically and abroad;

(3) the circumstances surrounding the distribution of the materials and potential hoarding or price-gouging concerns;

(4) the quantity and quality of the materials;

(5) humanitarian considerations; and

(6) international relations and diplomatic considerations.

(d) *Exemption.*

(1) The Administrator has determined in the interest of promoting the national defense to generally allow the export of covered materials from shipments made by or on behalf of U.S. manufacturers with continuous export agreements with customers in other countries since at least January 1, 2020, so long as at least 80 percent of such manufacturer's domestic production of such covered materials, on a per item basis, was distributed in the United States in the preceding 12 months. If FEMA determines that a shipment of covered materials falls within this exemption, such materials may be exported without further review by FEMA, provided that the Administrator may waive this exemption and fully review shipments of covered materials under paragraph (b) of this section, if the Administrator determines that doing so is necessary or appropriate to promote the national defense. FEMA will communicate to CBP regarding the application of this exemption to shipments identified by CBP.

(2) The Administrator may establish, in his discretion, additional exemptions that he determines necessary or appropriate to promote the national defense and will announce any such exemptions by notice in the **Federal Register**.

(e) *Exportations prohibited.* The exportation of covered materials other than in accordance with this section is prohibited.

§ 328.103 Designation of covered materials.

(a) The Administrator has designated the following materials as ''covered materials'' under this part:

(1) N95 Filtering Facepiece Respirators, including devices that are disposable half-face-piece non-powered air-purifying particulate respirators intended for use to cover the nose and mouth of the wearer to help reduce wearer exposure to pathogenic biological airborne particulates;

(2) Other Filtering Facepiece Respirators (*e.g.,* those designated as N99, N100, R95, R99, R100, or P95, P99, P100), including single-use, disposable half-mask respiratory protective devices that cover the user's airway (nose and mouth) and offer protection from particulate materials at an N95 filtration efficiency level per 42 CFR 84.181;

(3) Elastomeric, air-purifying respirators and appropriate particulate filters/cartridges;

(4) PPE surgical masks, including masks that cover the user's nose and mouth and provide a physical barrier to fluids and particulate materials; and

(5) PPE gloves or surgical gloves, including those defined at 21 CFR 880.6250 (exam gloves) and 878.4460 (surgical gloves) and such gloves intended for the same purposes.

(b) Upon determination that additional items are scarce and necessary for national defense, and that consideration under this allocation order is the only way to meet national defense requirements without significant disruption to the domestic markets, the Administrator may designate additional materials as ''covered materials'' in the list provided above. The Administrator will publish notice of these additional ''covered materials'' in the **Federal Register**.

§ 328.104 Investigations and injunctions; penalties.

(a) To administer or enforce this subpart, the Administrator may exercise the authorities available under section 705 of the Defense Production Act of 1950, as amended, 50 U.S.C. 4555, including the conduct of investigations, requests for information or testimony, and inspections of records or premises. Before such authorities are utilized, the Administrator will determine the scope and purpose of the investigation, inspection, or inquiry, and be assured that no adequate and authoritative data are available from any Federal or other responsible agency.

(b) Whenever, in the judgment of the Administrator, any person has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of any provision of this subpart, or order issued thereunder, the Administrator may exercise the authorities available under section 706 of the Defense Production Act of 1950, as amended, 50 U.S.C. 4556, including applying for a preliminary, permanent, or temporary injunction, restraining order, or other order to enforce compliance with this subpart.

(c) Any person who willfully engages in violations of this part is subject to penalties available under section 103 of the Defense Production Act of 1950, as amended, 50 U.S.C. 4513, or other available authority.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–07659 Filed 4–8–20; 5:15 pm]

BILLING CODE 9111–19–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 200323–0085]

RIN 0648–BJ37

Take of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Rocky Intertidal Monitoring Surveys Along the Oregon and California Coasts; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the effective date of the final regulations published on April 2, 2020, governing the take of marine mammals incidental to the University of California Santa Cruz's Partnership for Interdisciplinary Studies of Coastal Oceans (UCSC/PISCO) rocky intertidal monitoring surveys along the Oregon and California coasts.

DATES: The effective date for the final rule published April 2, 2020, at 85 FR 18459, is corrected. The final rule is effective from April 12, 2020, through April 11, 2025.

ADDRESSES: Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Dwayne Meadows, Ph.D., Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

A final rule published April 2, 2020 (85 FR 18459), for the take of marine mammals incidental to the University of California Santa Cruz's Partnership for Interdisciplinary Studies of Coastal Oceans (UCSC/PISCO) rocky intertidal monitoring surveys along the Oregon and California coasts. This document corrects the incorrect final effective date of the regulations contained in the preamble **DATES** section.

Need for Correction

As published on page 18459 of the preamble of the final rule the **DATES** section was incorrect. This correction does not change NMFS' analysis or conclusions in the final rule.

Dated: April 7, 2020.

Samuel D. Rauch III,

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

[FR Doc. 2020–07622 Filed 4–9–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 70
Friday, April 10, 2020

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. AO–SC–20–J–0011; AMS–SC–19–0082; SC19–984–1]

Walnuts Grown in California; Hearing on Proposed Amendment of Marketing Order No. 984; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of hearing on proposed rulemaking; correction.

SUMMARY: The Agricultural Marketing Service (AMS), USDA, published a document in the **Federal Register** of February 11, 2020, announcing a public hearing to receive evidence on proposed amendments to Federal Marketing Order No. 984 (Order) regulating the handling of walnuts grown in California. The California Walnut Board (Board), which locally administers the Order, recommended proposed amendments that would add authority for the Board to provide credit for certain market promotion expenses paid by handlers against their annual assessments due under the Order and establish requirements to effectuate the new authority. In addition, AMS proposed to make changes to the Order as may be necessary to conform to any amendment that may result from the hearing. The date and method of the hearing have changed.

FOR FURTHER INFORMATION CONTACT: Melissa Schmaedick, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, Post Office Box 952, Moab, UT 84532; Telephone: (435) 265–5092, Fax: (435) 259–1502, or Andrew Hatch, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Melissa.Schmaedick@usda.gov* or *Andrew.Hatch@usda.gov.*

Small businesses may request information on this proceeding by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of February 11, 2020, in FR Doc. 2020–02387, on page 7669, in the first column, correct the ''**DATES**'' and ''**ADDRESSES**'' captions to read:

DATES: The hearing will be held April 20, 2020, from 8:00 a.m. to 5:00 p.m. Pacific Standard Time (PST) and, if deemed necessary by the presiding administrative law judge, will continue April 21, 2020, from 8:00 a.m. until 5:00 p.m. PST or until any other such time as determined by the judge.

ADDRESSES: USDA will conduct the hearing remotely, without gathering in a central location, using the ZOOM audio-video conferencing system. Individuals will be able to testify before the administrative law judge for the hearing record through their own computer or any other technology that supports the ZOOM application. To participate remotely in the hearing via audio-video technology, participant's computers must have operating camera, microphone and audio functions. The on-line hearing location will be *https://www.zoomgov.com/s/1601790781.*

For individuals who do not have access to a computer with operating camera, microphone and audio functions, cellular or land-line telephones may be used. To access the on-line hearing by telephone, participants may dial (669) 254–5252 or (646) 828–7666.

* * * * *

Additional Information

AMS requests that individuals who would like to testify (witnesses) provide their name, phone number and email address to Melissa Schmaedick and Andrew Hatch of the Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, whose contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section above, by 5:00 p.m. Eastern Standard Time (EST), April 15, 2020.

Further, AMS requests all witnesses to submit electronic copies of any prepared statements and supporting documents via email to *walnut.hearing@usda.gov* also by 5:00 p.m. EST, April 15, 2020, so that they can be made public at the time of the hearing. These documents will be published to the AMS website at the following location *https://www.ams.usda.gov/rules-regulations/walnuts-grown-california-hearing-proposed-amendment-marketing-order-no984.*

While not required, individuals wanting to participate as audience members may pre-register by providing their name, phone number and email address to Melissa Schmaedick and Andrew Hatch of the Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, whose contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section above, by 5:00 p.m. EST April 15, 2020.

All pre-registered individuals will receive an invitation via email prior to the hearing. The invitation will include a link the individuals can click at the start of the hearing on April 20, 2020, and April 21, 2020. Individuals who choose not to pre-register may access the hearing on-line by cutting and pasting *https://www.zoomgov.com/s/1601790781* into their web browser.

Interested persons may visit *https://www.ams.usda.gov/rules-regulations/walnuts-grown-california-hearing-proposed-amendment-marketing-order-no984* for further information on the use of Zoom technology and applicable guidelines and procedures for this remote hearing.

The hearing will be transcribed by a court reporting service and will be recorded for USDA training purposes.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2020–07508 Filed 4–9–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0327; Product Identifier 2020–NM–033–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2016–18–09, which applies to certain Airbus SAS Model A318, A319, and A320 series airplanes. AD 2016–18–09 requires repetitive detailed inspections for damage on the fuselage skin at certain frames, and applicable related investigative and corrective actions. Since the FAA issued AD 2016–18–09, additional chafing of the forward fuselage underneath the fairing structure was found. Investigation revealed the cause as contact between the belly fairing nut plate and the fuselage. This proposed AD would continue to require repetitive inspections of the fuselage skin for chafing damage at certain frames using a new inspection process, and corrective actions if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. 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 26, 2020.

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

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

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0327.

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–2020–0327; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *sanjay.ralhan@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–2020–0327; Product Identifier 2020–NM–033–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 based on those comments.

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

Discussion

The FAA issued AD 2016–18–09, Amendment 39–18639 (81 FR 61993, September 8, 2016) (''AD 2016–18–09''), which applied to certain Airbus SAS Model A318, A319, and A320 series airplanes. AD 2016–18–09 requires repetitive detailed inspections for damage on the fuselage skin at certain frames, and applicable related investigative and corrective actions. The FAA issued AD 2016–18–09 to address damage to the fuselage skin, which could lead to crack initiation and propagation, possibly resulting in reduced structural integrity of the fuselage.

Actions Since AD 2016–18–09 Was Issued

Since the FAA issued AD 2016–18–09, additional chafing of the forward fuselage underneath the fairing structure was found. Investigation revealed the cause as contact between the belly fairing nut plate and the fuselage; therefore, Airbus issued Service Bulletin A320–53–1287, Revision 01, dated April 4, 2019, to include process changes to ensure the electrical requirement integrity.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0030, dated February 18, 2020 (''EASA AD 2020–0030'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; and Model A320–211, –212, –214, –215, –216, –231, –232, and –233 airplanes. EASA AD 2020–0030 supersedes EASA AD 2014–0259 (which corresponds to FAA AD 2016–18–09).

Model A320–215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; therefore, this AD does not include those airplanes in the applicability.

This proposed AD was prompted by a report of additional chafing of the forward fuselage underneath the fairing structure. Investigation revealed the cause as contact between the belly fairing nut plate and the fuselage. The FAA is proposing this AD to address damage to the fuselage skin, which could lead to crack initiation and propagation, possibly resulting in reduced structural integrity of the fuselage. See the MCAI for additional background information.

Model A320–216 Airplanes

The Airbus SAS Model A320–216 was U.S. type certificated on December 19, 2016. Before that date, any EASA ADs that affected Model A320–216 airplanes were included in the U.S. type certificate as part of the Required

Airworthiness Actions List (RAAL). One or more Model A320–216 airplanes have subsequently been placed on the U.S. Register, and will now be included in FAA AD actions. For Model A320–216 airplanes, the requirements that correspond to FAA AD 2016–18–09 were mandated by the MCAI via the RAAL. Although that RAAL requirement is still in effect, for continuity and clarity the FAA has identified Model A320–216 airplanes in paragraph (c) of this AD.

Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2016–18–09, this proposed AD would retain all of the requirements of AD 2016–18–09. Those requirements are referenced in EASA AD 2020–0030, which, in turn, is referenced in paragraph (g) of this proposed AD.

Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0030 describes procedures for repetitive inspections of the fuselage skin for chafing damage at certain frames, and applicable corrective actions if damage is found. The corrective actions include a special detailed inspection of external fuselage skin panel for any cracking, measurement of crack length and remaining thickness, modification, and repair. EASA AD 2020–0030 also provides an optional terminating action (modification of the forward belly fairing) for the repetitive inspections. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0030 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0030 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0030 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0030 that is required for compliance with EASA AD 2020–0030 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0327 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 1,538 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2016–18–09	12 work-hours × $85 per hour = $1,020	$90	$1,110	$1,691,800
New proposed actions	13 work-hours × $85 per hour = $1,105	150	1,255	1,930,190

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
21 work-hours × $85 per hour = $1,785	$3,550	$5,335

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Labor cost	Parts cost	Cost per product
21 work-hours × $85 per hour = $1,785	$4,150	$5,935

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA

with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2016–18–09, Amendment 39–18639 (81 FR 61993, September 8, 2016) and adding the following new AD:

Airbus SAS: Docket No. FAA–2020–0327; Product Identifier 2020–NM–033–AD.

(a) Comments Due Date

The FAA must receive comments by May 26, 2020.

(b) Affected ADs

This AD replaces AD 2016–18–09, Amendment 39–18639 (81 FR 61993, September 8, 2016) (''AD 2016–18–09'').

(c) Applicability

This AD applies to Airbus SAS Model airplanes specified in paragraphs (c)(1) through (3) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0030, dated February 18, 2020 (''EASA AD 2020–0030'').

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by a report of additional chafing of the forward fuselage underneath the fairing structure. Investigation revealed the cause as contact between the belly fairing nut plate and the fuselage. The FAA is issuing this AD to address damage to the fuselage skin, which could lead to crack initiation and propagation, possibly resulting in reduced structural integrity of the fuselage.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0030.

(h) Exceptions to EASA AD 2020–0030

(1) Where EASA AD 2020–0030 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0030 does not apply to this AD.

(3) Where EASA AD 2020–0030 refers to the effective date of EASA AD 2014–0259, this AD requires using October 13, 2016 (the effective date of AD 2016–18–09).

(4) Where EASA AD 2020–0030 refers to doing actions ''in accordance with the instructions of'' the service information, for this AD, only use paragraph 3.C., ''Procedure,'' of the service information.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) 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.

(ii) AMOCs approved previously for AD 2016–18–09 are approved as AMOCs for the corresponding provisions of EASA AD 2020–0030 that are required by paragraph (g) of this AD.

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

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2020–0030 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

(1) For information about EASA AD 2020–0030, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0327.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *sanjay.ralhan@faa.gov.*

Issued on April 3, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–07463 Filed 4–9–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0217; Product Identifier 2019–NM–193–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2019–03–11, which applies to certain Airbus SAS Model A350–941 and –1041 airplanes. AD 2019–03–11 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and airworthiness limitations. Since AD 2019–03–11 was issued, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. 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 26, 2020.

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

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

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0217.

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–2020–0217; 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: Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@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–2020–0217; Product Identifier 2019–NM–193–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 based on 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 issued AD 2019–03–11, Amendment 39–19563 (84 FR 5584, February 22, 2019) (''AD 2019–03–11''), for certain Airbus SAS Model A350–941 and –1041 airplanes. AD 2019–03–11 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive maintenance requirements and airworthiness limitations. The FAA issued AD 2019–03–11 to address safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition.

Actions Since AD 2019–03–11 Was Issued

Since AD 2019–03–11 was issued, the FAA has determined that new or more restrictive airworthiness limitations are necessary.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0288, dated November 28, 2019 (''EASA AD 2019–0288'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes. EASA AD 2019–0288 supersedes EASA AD 2018–0004, dated January 9, 2018; and EASA AD 2018–0179, dated August 23, 2018 (which corresponds to FAA AD 2019–03–11).

Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after August 20, 2019, must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is proposing this AD to address safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0288 describes airworthiness limitations for certification maintenance requirements.

This AD would also require Airbus A350 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 04, dated December 15, 2017; and Airbus A350 ALS Part 3, Certification Maintenance Requirements (CMR), Variation 4.2, dated July 26, 2018; which the Director of the Federal Register approved for incorporation by reference as of March 29, 2019 (84 FR 5584, February 22, 2019).

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

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to a bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the agency evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Proposed AD Requirements

This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, which are specified in EASA AD 2019–0288 described previously, as incorporated by reference. Any differences with EASA AD 2019–0288 are identified as exceptions in the regulatory text of this AD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (l)(1) of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2019–0288 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2019–0288 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD.

Service information specified in EASA AD 2019–0288 that is required for compliance with EASA AD 2019–0288 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0217 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c).

Costs of Compliance

The FAA estimates that this proposed AD affects 13 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2019–03–11 to be $7,650 (90 work-hours × $85 per work-hour).

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

The FAA estimates the total cost per operator for the new proposed actions to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2019–03–11, Amendment 39–19563 (84 FR 5584, February 22, 2019), and adding the following new AD:

Airbus SAS: Docket No. FAA–2020–0217; Product Identifier 2019–NM–193–AD.

(a) Comments Due Date

The FAA must receive comments by May 26, 2020.

(b) Affected ADs

This AD replaces AD 2019–03–11, Amendment 39–19563 (84 FR 5584, February 22, 2019) (''AD 2019–03–11'').

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before August 20, 2019.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address safety-significant latent failures that would, in combination with one or more other specific failures or events, result in a hazardous or catastrophic failure condition.

(f) Compliance

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

(g) Retained Maintenance or Inspection Program Revision, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2019–03–11, with no changes. Within 90 days after March 29, 2019 (the effective date of AD 2019–03–11), revise the existing maintenance or inspection program, as applicable, to incorporate Airbus A350 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 04, dated December 15, 2017, as supplemented by Airbus A350 ALS Part 3, Certification Maintenance Requirements (CMR), Variation 4.2, dated July 26, 2018. The initial compliance time for accomplishing the actions is at the applicable times specified in Airbus A350 Airworthiness Limitations Section (ALS) Part 3, Certification Maintenance Requirements (CMR), Revision 04, dated December 15, 2017, as supplemented by Airbus A350 ALS Part 3, Certification Maintenance Requirements (CMR), Variation 4.2, dated July 26, 2018; or within 90 days after March 29, 2019; whichever occurs later.

(h) Retained No Alternative Actions or Intervals, With a New Exception

This paragraph restates the requirements of paragraph (h) of AD 2019–03–11, with a new exception. Except as required by paragraph (i) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals, may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (l)(1) of this AD.

(i) New Maintenance or Inspection Program Revision

Except as specified in paragraph (j) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0288, dated November 28, 2019 (''EASA AD 2019–0288''). Accomplishing the maintenance or inspection program revision required by this paragraph terminates the requirements of paragraph (g) of this AD.

(j) Exceptions to EASA AD 2019–0288

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2019–0288 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2019–0288 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, to incorporate the ''maintenance tasks and associated thresholds and intervals'' specified in paragraph (3) of EASA AD 2019–0288 within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2019–0288 is at the applicable ''associated thresholds'' specified in paragraph (3) of EASA AD 2019–0288, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2019–0288 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2019–0288 does not apply to this AD.

(k) New Provisions for Alternative Actions or Intervals

After the maintenance or inspection program has been revised as required by paragraph (i) of this AD, no alternative actions (*e.g.,* inspections) or intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2019–0288.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (m)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2019–0288 that contains RC procedures and tests: Except as required by paragraph (l)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(m) Related Information

(1) For information about EASA AD 2019–0288, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0217.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@faa.gov.*

Issued on April 3, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–07462 Filed 4–9–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0329; Product Identifier 2020–NM–028–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A320–214, –216, –231, –232, –233, –251N, and –271N airplanes. This proposed AD was prompted by a report that following the installation of a second cargo fire extinguishing bottle, insufficient clearance between the cargo compartment fire extinguishing pipes was found. This proposed AD would require inspection and modification of the cargo compartment fire extinguishing pipes, and on-condition actions if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. 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 26, 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 the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0329.

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–2020–0329; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@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–2020–0329; Product Identifier 2020–NM–028–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 based on those comments.

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

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0279R1, dated February 5, 2020 (''2019–0279R1'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A320–214, –216, –231, –232, –233, –251N, and –271N airplanes.

This proposed AD was prompted by a report that following the installation of a second cargo fire extinguishing bottle, insufficient clearance between the cargo compartment fire extinguishing pipes was found. The FAA is proposing this AD to address insufficient clearance between the cargo compartment fire extinguishing pipes, which could lead to wear and chafing of the pipes and possibly result in reduced fire extinguishing capability in case of a cargo compartment fire. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0279R1 describes procedures for an inspection and modification of the cargo compartment fire extinguishing pipes, including installing a clamp, checking the distance between the pipes, and accomplishing on-condition actions including adjusting the screws and pipes and installing a spacer between the two pipes. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0279R1 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding

FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2019–0279R1 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2019–0279R1 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2019–0279R1 that is required for compliance with EASA AD 2019–0279R1 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0329 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 368 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 3 work-hours × $85 per hour = $255	$103	Up to $358	Up to $131,744.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2020–0329; Product Identifier 2020–NM–028–AD.

(a) Comments Due Date

The FAA must receive comments by May 26, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A320–214, –216, –231, –232, –233, –251N, and –271N airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2019–0279R1, dated February 5, 2020 (''EASA AD 2019–0279R1'').

(d) Subject

Air Transport Association (ATA) of America Code 26, Fire protection.

(e) Reason

This AD was prompted by a report that following the installation of a second cargo fire extinguishing bottle, insufficient clearance between the cargo compartment fire extinguishing pipes was found. The FAA is issuing this AD to address insufficient clearance between the cargo compartment fire extinguishing pipes, which could lead to wear and chafing of the pipes and possibly result in reduced fire extinguishing capability in case of a cargo compartment fire.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2019–0279R1.

(h) Exceptions to EASA AD 2019–0279R1

(1) Where EASA AD 2019–0279R1 refers to ''the effective date of the original issue of [AD 2019–0279]'' or ''the effective date of this revised AD,'' this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0279R1 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may

be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2019–0279R1 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

(1) For information about EASA AD 2019–0279R1, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0329.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@faa.gov.*

Issued on April 3, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–07464 Filed 4–9–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0371; Project Identifier AD–2019–00124–E]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all General Electric Company (GE) CF6–80C2A1, CF6–80C2A2, CF6–80C2A3, CF6–80C2A5, CF6–80C2A5F, CF6–80C2A8, CF6–80C2B1, CF6–80C2B1F, CF6–80C2B2, CF6–80C2B2F, CF6–80C2B4, CF6–80C2B4F, CF6–80C2B5F, CF6–80C2B6, CF6–80C2B6F, CF6–80C2B6FA, CF6–80C2B7F, CF6–80C2B8F, and CF6–80C2D1F model turbofan engines. This proposed AD was prompted by reports of incidents that resulted in a significant fuel loss during flight and an in-flight shutdown (IFSD) of the engine. This proposed AD would require initial and repetitive shim checks of the hydromechanical unit/main engine control (HMU/MEC) idler adapter on the accessory gearbox (AGB) assembly and, depending on the results of the shim check, possible replacement of the inserts on the HMU/MEC idler adapter. As a terminating action to the repetitive shim checks, this proposed AD would also require a protrusion check and a pull-out test and replacements of inserts on the HMU/MEC idler adapter that fail either test. 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 26, 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 General Electric Company, 1 Newman Way, Cincinnati, OH 45215, United States; phone: (513) 552–3272; email: *aviation.fleetsupport@ae.ge.com.* You may view this referenced service information at the FAA, Engine & Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0371; 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: Matthew Smith, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7735; fax: 781–238–7199; email: *matthew.c.smith@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–2020–0371; Project Identifier AD–2019–00124–E'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this proposed AD.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner.

Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Matthew Smith, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA received reports regarding incidents on GE CF6–80C2 model turbofan engines that resulted in fuel loss during flight and an IFSD of the engine. The incidents resulted from inserts on the HMU/MEC idler adapter on the AGB assembly pulling out of the housing. An investigation by the manufacturer discovered improperly cut threads on the inserts and erroneous instructions in the maintenance manual, which contributed to poor thread engagement. This condition, if not addressed, could result in failure of the HMU/MEC, engine fire, and damage to the airplane.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE CF6–80C2 Service Bulletin (SB) 72–1577 R01, dated August 16, 2019. The SB describes procedures for performing shim checks of the HMU/MEC idler adapter. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require initial and repetitive shim checks of the HMU/MEC idler adapter on the AGB assembly and, depending on the results of the shim checks, replacement of the inserts on the HMU/MEC idler adapter. As a terminating action to the repetitive shim checks, this proposed AD would also require a protrusion check and a pull-out test and replacements of inserts on the HMU/MEC idler adapter that fail either test.

Costs of Compliance

The FAA estimates that this proposed AD affects 555 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Shim check	1.00 work-hour × $85.00 per hour = $85.00	$0.00	$85.00	$47,175
Protrusion Check/Pull-out test	4.00 work-hours × $85.00 per hour = $340.00	0.00	340.00	188,700

The FAA estimates the following costs to do any necessary replacements that would be required based on the results of the proposed shim check. The FAA has no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace HMU/MEC idler adapter insert	4.00 work-hours × $85.00 per hour = $340.00	$50.00	$390.00

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. FAA–2020–0371; Project Identifier AD–2019–00124–E.

(a) Comments Due Date

The FAA must receive comments by May 26, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) CF6–80C2A1, CF6–80C2A2, CF6–80C2A3, CF6–80C2A5, CF6–80C2A5F, CF6–80C2A8, CF6–80C2B1, CF6–80C2B1F, CF6–80C2B2, CF6–80C2B2F, CF6–80C2B4, CF6–80C2B4F, CF6–80C2B5F, CF6–80C2B6, CF6–80C2B6F, CF6–80C2B6FA, CF6–80C2B7F, CF6–80C2B8F, and CF6–80C2D1F model turbofan engines that underwent an engine shop visit prior to November 1, 2018.

(d) Subject

Joint Aircraft System Component (JASC) Code 7321, Fuel Control/Turbine Engines.

(e) Unsafe Condition

This AD was prompted by failure of the hydromechanical unit/main engine control (HMU/MEC) on the accessory gearbox (AGB) assembly. The FAA is issuing this AD to prevent failure of the HMU/MEC. The unsafe condition, if not addressed, could result in engine fire and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) Perform a shim check of the HMU/MEC idler adapter inserts in accordance with paragraph 3.B.(1) of GE CF6–80C2 Service Bulletin (SB) 72–1577 R01, dated August 16, 2019, within 1,200 flight hours after the effective date of this AD.

(2) Thereafter, perform a repetitive shim check of the HMU/MEC idler adapter inserts in accordance with paragraph 3.B.(1) of GE CF6–80C2 SB 72–1577 R01, dated August 16, 2019 within every 1,200 flight hours since last shim check.

(3) If any HMU/MEC idler adapter insert fails the shim check required by paragraph (g)(1) or (2) of this AD, perform the following prior to further flight:

(i) Retorque the bolts at each bolt location that failed the shim check, in accordance with paragraph 3.B.(1)(c) of GE CF6–80C2 SB 72–1577 R01, dated August 16, 2019.

(ii) Perform the shim check again, in accordance with paragraph (g)(1) of this AD. If the shim check fails again, perform the terminating action required by paragraph (h) of this AD.

(h) Terminating Action

As a terminating action to the repetitive shim check requirements of paragraph (g)(2) and (g)(3) of this AD, and as required by paragraph (g)(3)(ii) of this AD, perform the following:

(1) Do a protrusion check at all eight bolt locations in accordance with paragraph 3.C.(3) of GE CF6–80C2 SB 72–1577 R01, dated August 16, 2019.

(2) Do a pull-out test at all eight bolt locations in accordance with paragraph 3.C.(4) of GE CF6–80C2 SB 72–1577 R01, dated August 16, 2019.

(3) If the inserts on the HMU/MEC idler adapter fail the protrusion check or pull-out test required by paragraph (h)(1) or (2) of this AD, replace the inserts in accordance with paragraph 3.C.(5) of GE CF6–80C2 SB 72–1577 R01, dated August 16, 2019. After replacement of the inserts is accomplished, the requirements of this AD have been met and no further action is required.

(4) If the inserts on the HMU/MEC idler adapter pass both the protrusion check and the pull-out test required by paragraphs (h)(1) and (2) of this AD, the requirements of this AD have been met and no further action is required.

(i) Credit for Previous Actions

You may take credit for the initial shim check of the HMU/MEC idler adapter required by paragraph (g)(1) of this AD if you performed this shim check before the effective date of this AD using GE CF6–80C2 SB 72–1577 R00, dated October 31, 2018.

(j) Definition

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

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Related Information

(1) For more information about this AD, contact Matthew Smith, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7735; fax: 781–238–7199; email: *matthew.c.smith@faa.gov.*

(2) For service information identified in this AD, contact General Electric Company, 1 Newman Way, Cincinnati, OH 45215, United States; phone: (513) 552–3272; email: *aviation.fleetsupport@ae.ge.com.* You may view this referenced service information at the FAA, Engine & Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

Issued on April 6, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–07565 Filed 4–9–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0328; Product Identifier 2020–NM–030–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A318 series airplanes, Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes, Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes, and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. This proposed AD was prompted by reports of crack findings in and around the fastener holes of the central and lateral window frame upper junction; those cracks were found on fastener holes outside of the inspection area specified in a certain airworthiness limitation item (ALI) task. This proposed AD would require repetitive inspections of the upper junction fastener holes at the lateral window frame for cracking; and for certain airplanes, repetitive inspections of the spotface around the fastener holes for cracking; and corrective actions if

necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. 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 26, 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 the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0328.

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–2020–0328; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *sanjay.ralhan@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–2020–0328; Product Identifier 2020–NM–030–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 based on those comments.

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

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0019, dated February 5, 2020 (''EASA AD 2020–0019'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –215, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. Model A320–215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; therefore, this AD does not include those airplanes in the applicability.

This proposed AD was prompted by reports of crack findings in and around the fastener holes of the central and lateral window frame upper junction. Those cracks were found on fastener holes outside of the inspection area specified in ALI task 531125, which is required by AD 2019–23–01, Amendment 39–19794 (84 FR 66579, December 5, 2019). The FAA is proposing this AD to address such cracking, which could result in reduced structural integrity of the airplane. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0019 describes procedures for repetitive inspections of the upper junction fastener holes at the lateral window frame for cracking, repetitive inspections of the spotface around the fastener holes for cracking, and corrective actions. Corrective actions include repair. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0019 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0019 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0019 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance

Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0019 that is required for compliance with EASA AD 2020–0019 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0328 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 938 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
4 work-hours × $85 per hour = $340	$0	$340	$318,920

The FAA has received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2020–0328; Product Identifier 2020–NM–030–AD.

(a) Comments Due Date

The FAA must receive comments by May 26, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus SAS airplanes specified in paragraphs (c)(1) through (4) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0019, dated February 5, 2020 (''EASA AD 2020–0019'').

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

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

(e) Reason

This AD was prompted by reports of crack findings in and around the fastener holes of the central and lateral window frame upper junction; those cracks were found on fastener holes outside of the inspection area specified in a certain airworthiness limitation item (ALI) task. The FAA is issuing this AD to address such cracking, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0019.

(h) Exceptions to EASA AD 2020–0019

(1) Where EASA AD 2020–0019 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0019 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2020–0019 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be

done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

(1) For information about EASA AD 2020–0019, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0328.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *sanjay.ralhan@faa.gov.*

Issued on April 3, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–07461 Filed 4–9–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0364; Project Identifier MCAI–2019–00119–E]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (Type Certificate Previously Held by Rolls-Royce plc) Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd. & Co KG Trent 1000–A2, Trent 1000–AE2, Trent 1000–C2, Trent 1000–CE2, Trent 1000–D2, Trent 1000–E2, Trent 1000–G2, Trent 1000–H2, Trent 1000–J2, Trent 1000–K2, and Trent 1000–L2 model turbofan engines. This proposed AD was prompted by the manufacturer revising the engine Time Limits Manual (TLM) life limits of certain critical rotating parts and direct accumulation counting (DAC) data files. This proposed AD would require operators to revise the airworthiness limitation section (ALS) of their approved maintenance program by incorporating the revised tasks of the applicable TLM for each affected engine model. 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 26, 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 Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, 15827 Blankenfelde-Mahlow, Germany; phone: +49 (0) 33 708 6 0; email: *https://www.rolls-royce.com/contact-us.aspx.* You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0364; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), 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: Stephen Elwin, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7236; fax: 781–238–7199; email: *stephen.l.elwin@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–2020–0364; Project Identifier MCAI–2019–00119–E'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

Except for Confidential Business Information as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Stephen Elwin, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2019–0058R1, dated April 2, 2019 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

The airworthiness limitations and/or certification maintenance instructions for certain Trent 1000 engines (also known as 'Package C'), which are approved by EASA, are defined and published in TLM T-Trent-10RRC. These instructions have been identified as mandatory for continued airworthiness.

Failure to accomplish these instructions could result in an unsafe condition.

Rolls-Royce recently revised the TLM, updating declared lives of certain critical parts and updating Direct Accumulation Counting (DAC) Data Files.

For the reason described above, this [EASA] AD requires accomplishment of the actions specified in the TLM. This [EASA] AD is revised to clarify that only tasks contained in two specific chapters of Rolls-Royce TLM T-Trent-10RRC are required by this [EASA] AD.

You may obtain further information by examining the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0364.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Chapter 05–10 of Rolls-Royce (RR) Trent 1000–A2 RR TLM T-Trent-10RRC, RR Trent 1000–AE2 RR TLM T-Trent-10RRC, RR Trent 1000–C2 RR TLM T-Trent-10RRC, RR Trent 1000–CE2 RR TLM T-Trent-10RRC, RR Trent 1000–D2 RR TLM T-Trent-10RRC, RR Trent 1000–E2 RR TLM T-Trent-10RRC, RR Trent 1000–G2 RR TLM T-Trent-10RRC, RR Trent 1000–H2 RR TLM T-Trent-10RRC, RR Trent 1000–J2 RR TLM T-Trent-10RRC, RR Trent 1000–K2 RR TLM T-Trent-10RRC, and RR Trent 1000–L2 RR TLM T-Trent-10RRC (referred to after this as ''RR Trent 1000 RR TLM T-Trent-10RRC, Chapter 05–10''), all dated December 12, 2018 . RR Trent 1000 RR TLM T-Trent-10RRC, Chapter 05–10, differentiated by engine model, identifies the reduced life limits of certain critical rotating parts and the latest DAC data files to include within the DAC life-usage calculator tool.

The FAA also reviewed Chapter 05–20 of RR Trent 1000–A2 RR TLM T-Trent-10RRC, RR Trent 1000–AE2 RR TLM T-Trent-10RRC, RR Trent 1000–C2 RR TLM T-Trent-10RRC, RR Trent 1000–CE2 RR TLM T-Trent-10RRC, RR Trent 1000–D2 RR TLM T-Trent-10RRC, RR Trent 1000–E2 RR TLM T-Trent-10RRC, RR Trent 1000–G2 RR TLM T-Trent-10RRC, RR Trent 1000–H2 RR TLM T-Trent-10RRC, RR Trent 1000–J2 RR TLM T-Trent-10RRC, RR Trent 1000–K2 RR TLM T-Trent-10RRC, and RR Trent 1000–L2 RR TLM T-Trent-10RRC (referred to after this as ''RR Trent 1000 RR TLM T-Trent-10RRC, Chapter 05–20''), all dated March 1, 2018. RR Trent 1000 RR TLM T-Trent-10RRC, Chapter 05–20, differentiated by engine model, identifies the critical rotating part inspection thresholds and intervals.

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

FAA's Determination

This product has been approved by EASA and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because we evaluated all the relevant information provided by EASA and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require operators to revise the ALS of their approved maintenance program by incorporating the revised tasks of the applicable TLM for each affected model turbofan engine.

Costs of Compliance

The FAA estimates that this proposed AD affects 20 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the TLM	1 work-hour × $85 per hour = $85	$0	$85	$1,700

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rolls-Royce Deutschland Ltd & Co KG: Docket No. FAA–2020–0364; Project Identifier MCAI–2019–00119–E.

(a) Comments Due Date

The FAA must receive comments by May 26, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd. & Co KG (Type Certificate previously held by Rolls-Royce plc) Trent 1000–A2, Trent 1000–AE2, Trent 1000–C2, Trent 1000–CE2, Trent 1000–D2, Trent 1000–E2, Trent 1000–G2, Trent 1000–H2, Trent 1000–J2, Trent 1000–K2, and Trent 1000–L2 model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7200, Engine (Turbine/Turboprop).

(e) Unsafe Condition

This AD was prompted by the manufacturer revising the engine Time Limits Manual (TLM) life limits of certain critical rotating parts and direct accumulation counting (DAC) data files. The FAA is issuing this AD to prevent the failure of critical rotating parts. The unsafe condition, if not addressed, could result in failure of one or more engines, loss of thrust control, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

Within 60 days after the effective date of this AD, revise the airworthiness limitation section (ALS) of the approved maintenance program by incorporating:

(1) Task 05–10–01–800–801, ''Critical Part Mandatory Lives,'' from Chapter 05–10 of the applicable Rolls-Royce (RR) Trent 1000 RR TLM T-Trent-10RRC, dated December 12, 2018, and

(2) Task 05–20–01–800–801, ''Critical Parts Mandatory Inspections,'' from Chapter 05–20 of the applicable RR Trent 1000 RR TLM T-Trent-10RRC, dated March 1, 2018.

(h) Definition

(1) For the purpose of this AD, the ''approved maintenance program'' is defined as the basis for which the operator or the owner ensures the continuing airworthiness of each operated airplane.

(2) For the purpose of this AD, the ''applicable RR Trent 1000 RR TLM T-Trent-10RRC'' refers to, depending on the affected model, the following engine models TLMs:

(i) RR Trent 1000–A2 RR TLM T-Trent-10RRC;

(ii) RR Trent 1000–AE2 RR TLM T-Trent-10RRC;

(iii) RR Trent 1000–C2 RR TLM T-Trent-10RRC;

(iv) RR Trent 1000–CE2 RR TLM T-Trent-10RRC;

(v) RR Trent 1000–D2 RR TLM T-Trent-10RRC;

(vi) RR Trent 1000–E2 RR TLM T-Trent-10RRC;

(vii) RR Trent 1000–G2 RR TLM T-Trent-10RRC;

(viii) RR Trent 1000–H2 RR TLM T-Trent-10RRC;

(ix) RR Trent 1000–J2 RR TLM T-Trent-10RRC;

(x) RR Trent 1000–K2 RR TLM T-Trent-10RRC; or

(xi) RR Trent 1000–L2 RR TLM T-Trent-10RRC.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

(1) For more information about this AD, contact Stephen Elwin, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7236; fax: 781–238–7199; email: *stephen.l.elwin@faa.gov.*

(2) Refer to European Union Aviation Safety Agency AD 2019–0058R1, dated April 2, 2019, for more information. You may examine the EASA AD in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating it in Docket No. FAA–2020–0364.

(3) For service information identified in this AD, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, 15827 Blankenfelde-Mahlow, Germany; phone: +49 (0) 33 708 6 0; email: *https://www.rolls-royce.com/contact-us.aspx.* You may view this referenced service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

Issued on April 3, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–07450 Filed 4–9–20; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

[3084–AB15]

Energy Labeling Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') proposes amending the Energy Labeling Rule (''Rule'') to require EnergyGuide labels for portable air conditioners and seeks comment on these proposed requirements, particularly the proposed effective date. The Commission also proposes conforming amendments to reflect upcoming Department of Energy (''DOE'') changes to efficiency descriptors for central air conditioners. In addition, the Commission seeks comment on the labeling requirements in our regulations.

DATES: Comments must be received by June 9, 2020.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Portable Air Conditioners, Matter No. R611004'' on your comment, and file your comment online through *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''Portable Air Conditioners, Matter No. R611004'' 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 C), 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 C), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome (202–326–2889), Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room CC–9528, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background on the Energy Labeling Rule

The Commission issued the Energy Labeling Rule (''Rule'') in 1979,[1] pursuant to the Energy Policy and

[1] 44 FR 66466 (Nov. 19, 1979).

Conservation Act of 1975 (''EPCA'').[2] The Rule requires energy labeling for major home appliances and other consumer products to help consumers compare the energy usage and costs of competing models. It also contains labeling requirements for refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, furnaces, central air conditioners, heat pumps, plumbing products, lighting products, ceiling fans, and televisions.

The Rule requires manufacturers to attach yellow EnergyGuide labels to many of the covered products and prohibits retailers from removing these labels or rendering them illegible. In addition, it directs sellers, including retailers, to post label information on websites and in paper catalogs from which consumers can order products. EnergyGuide labels for most covered products contain three key disclosures: Estimated annual energy cost, a product's energy consumption or energy efficiency rating as determined by DOE test procedures, and a comparability range displaying the highest and lowest energy costs or efficiency ratings for all similar models. The Rule requires marketers to use national average costs for applicable energy sources (*e.g.,* electricity, natural gas, oil) as calculated by DOE in all cost calculations. Under the Rule, the Commission periodically updates comparability range and annual energy cost information based on manufacturer data submitted pursuant to the Rule's reporting requirements.[3]

II. Proposed EnergyGuide Labels for Portable Air Conditioners

The Commission proposes adding labeling requirements for portable air conditioners. Under EPCA, the Commission may require labeling for DOE-designated covered products if it determines that labeling will ''assist purchasers in making purchasing decisions'' and will be ''economically and technologically feasible.'' 42 U.S.C. 6294(a)(3). As detailed below, the Commission has already sought comment on labeling requirements for portable air conditioners in several earlier **Federal Register** notices. In these notices, the Commission discussed the benefits and burdens of such labels and their format and content, which would resemble the EnergyGuide labels already required for room air conditioners.[4] It found, in accordance with its EPCA authority, that labeling for this product category is likely to be economically and technologically feasible and is likely to assist consumers in their purchasing decisions.[5] In response to these earlier notices and over several rounds of comments, a wide array of stakeholders, including industry members, utilities, and consumer groups supported (or did not oppose) the proposal.

In January 2017, however, DOE withdrew its final efficiency standards from publication in the **Federal Register** pursuant to the Presidential Memorandum on Implementation of Regulatory Freeze, leaving the final standards compliance date unclear. As a result, the Commission delayed finalizing the label requirements due to uncertainty about the timing of DOE efficiency standards for these products.[6] However, a recent DOE notice announcing a compliance date for the standards has resolved that uncertainty.[7] Accordingly, the Commission now proposes to require an EnergyGuide label for portable air conditioners beginning on January 10, 2025 to coincide with those DOE standards. Manufacturers would be able to use the label earlier. The Commission seeks comment on the proposed amendments, particularly the proposed effective date for those labels.

A. Portable Air Conditioner Energy Costs and Consumer Labels

Earlier in this proceeding, the Commission addressed the benefits as well as the economic and technological feasibility of labeling for portable air conditioners. In a 2015 notice, for example, it explained that portable air conditioners are common in the marketplace, vary in energy efficiency, and use energy similar to, or greater than, already-labeled room air conditioners.[8] In addition, DOE reported the aggregate energy use of portable air conditioners has increased as these units have become more popular.[9] According to DOE estimates, sellers shipped 1.32 million units in the United States in 2014, with future growth projected.[10] DOE also found these products exhibit a wide range of efficiency ratings and energy costs for similarly sized units (a difference of about $100 per year between the most and least efficient models). After the 2025 implementation of DOE standards that range is likely to become smaller, but remain significant (a difference of about $30–$50 depending on the size category as indicated in proposed Appendix E2).

In addition, DOE estimated average per-household annual electricity consumption for these products at approximately 804 kWh/yr for residential products, generating $105 in annual energy costs (at $0.13 per kWh/hr).[11] Therefore, energy labels are likely to assist consumers with their purchasing decisions by allowing them to compare the energy costs of competing models and, consequently, save significant money on their electric bills.

In addition, there is no evidence that labeling is economically or technologically infeasible (*i.e.,* that the costs of labeling substantially outweigh consumer benefits). Indeed, the burdens (discussed *infra* in the Paperwork Reduction Act section) of labeling are not likely to differ significantly from those for room air conditioners, which already have EnergyGuide labels.[12]

B. Proposed Label Requirements

The proposed portable air conditioner label would be largely identical to the current room air conditioner label in content and format. As with the room air conditioner labels, the labels would appear on packaging, not the product itself. The proposed amendments also incorporate DOE's definition of ''portable air conditioner'' at section 305.3.[13] The appendices to the proposed

[2] 42 U.S.C. 6294. EPCA also requires the Department of Energy (''DOE'') to develop test procedures that measure how much energy appliances use, and to determine the representative average cost a consumer pays for different types of energy.

[3] 16 CFR 305.10.

[4] 79 FR 34642 (June 18, 2014); 80 FR 67351 (Nov. 2, 2015); 81 FR 62681 (Sept. 12, 2016); and 82 FR 29230 (June 28, 2017). During this proceeding, the Commission waited on label requirements pending a final DOE-issued test procedure for these products. DOE published that test procedure on June 1, 2016 (81 FR 35242) and it became mandatory for energy use representations on November 28, 2016.

[5] 80 FR at 67357; and 81 FR at 62683. In discussing similar economic and technological feasibility determinations for labels in 1979, the Commission concluded ''that Congress['s] intent was to permit the exclusion of any product category, if the Commission found that the costs of the labeling program would substantially outweigh any potential benefits to consumers.'' 44 FR at 66467–68 (discussing determinations under 42 U.S.C. 6294(a)(1)).

[6] 82 FR at 29232.

[7] 85 FR 1378 (Jan. 10, 2020).

[8] 80 FR at 67357–58.

[9] *See* 78 FR 40403, 40404–05 (July 5, 2013).

[10] 85 FR 1378; and ''*2016–12 Final Rule Technical Support Document: Energy Efficiency Program for Consumer Products and Commercial and Industrial Equipment: Portable Air Conditioners*'' (''DOE TSD'') December 2016 at *https://www.regulations.gov/document?D=EERE-2013-BT-STD-0033-0047*.

[11] DOE TSD at Table 7.3.2.

[12] *See* 80 FR at 67357 and 81 FR at 62683.

[13] To effect new labeling requirements, the proposed amendments insert the term ''portable air conditioner'' next to ''room air conditioner'' into appropriate paragraphs of the Rule as detailed in the amendatory language included in this notice.

Rule contain ranges specifically for portable air conditioners broken down into three size categories. The FTC staff derived these cost ranges based on DOE energy use data and has applied the same electricity cost rate ($0.13 kWh/hr) currently used for room air conditioner labels.[14] As discussed in detail in the 2016 and 2017 notices, the Commission does not propose combining the ranges for portable and room air conditioners because it is not clear whether consumers routinely compare the two product categories when shopping.[15] However, consumers who want to compare the two product categories would be able to easily do so using the label's energy cost disclosure. In addition, consistent with requirements applicable to room air conditioners, the proposed amendments contain reporting requirements identical to those created by DOE for these products.

Finally, the Commission proposes to establish an effective date for the label that coincides with the compliance date for DOE standards. Citing burdens associated with testing and labeling, industry comments earlier in this proceeding urged the Commission to synchronize any new labeling requirements with the DOE standards compliance date.[16] The Commission seeks comments on the proposed effective date.

III. Conforming Changes to Efficiency Descriptors for Central Air Conditioners

The Commission also seeks comments on updates to the Rule's efficiency descriptors for central air conditioners in Section 305.20 to conform to pending DOE changes. In 2017, as part of efficiency standards proceeding, DOE announced changes to the rating methods and associated efficiency descriptors for central air conditioners (*e.g.,* from ''Seasonal Energy Efficiency Ratio (SEER)'' to ''Seasonal Energy Efficiency Ratio 2 (SEER2)'').[17] The DOE changes become effective on January 1, 2023. To ensure consistency with the DOE standards, the Commission proposes to change all applicable references in Part 305, effective on January 1, 2023. Given the relatively small differences in the ratings produced by the old and the new rating methods, the Commission does not propose any additional changes to the label. The Commission also plans to update ranges in Appendix H and I as well as applicable numbers on the sample labels in Appendix L when updated data become available. The Commission seeks comments on all aspects of this proposal, including whether data is available to update the tables in Appendices H and I.

IV. Questions on Label Layout and Format Requirements

The Commission also requests comment on whether we should revise Section 305.13—Layout, format, and placement for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioner, and pool heaters—and Section 305.20—Labeling for central air conditioners, heat pumps, and furnaces—of the Rule. These sections address required disclosures and include detailed requirements for labeling of the covered products. For example, Section 305.13(b) *Layout* specifies the trim size dimensions for labels, including the precise width and length (*e.g.,* width 5¼ to 5½ inches (13.34 cm. to 13.97 cm.) and the number of picas for the copy set (between 27 and 29); and the type style and setting. Section 305.13(c) *Type style and setting* states that Arial series typeface or equivalent must be used exclusively, prohibits the use of hyphens and mandates that text ''be set flush left with two points leading except where otherwise indicated.'' Section 305.13 (e)(1) *Adhesive labels* states that:

> All adhesive labels should be applied so they can be easily removed without the use of tools or liquids, other than water, but should be applied with an adhesive with an adhesive capacity sufficient to prevent their dislodgment during normal handling throughout the chain of distribution to the retailer or consumer.

The provision then provides that the paper stock for the labels shall have a basic weight of not less than 58 pounds per 500 sheets (25″ x 38″) or equivalent and includes a suggested minimum peel adhesive capacity: ''[a] minimum peel adhesion capacity for the adhesive of 12 ounces per square inch is suggested, but not required if the adhesive can otherwise meet the above standard.''

Section 305.20 of the Rule similarly contains requirements for layout; type style and setting; and label type with almost identical provisions addressing trim size, number of picas, requirement of Arial font, paper weight specifications, and includes a suggested minimum peel adhesion capacity.

Freeing businesses from unnecessarily prescriptive requirements can benefit businesses and consumers. Other Commission Rules and Guides containing labeling requirements do not include the same level of detail regarding the content of the label. For example, the Rules and Regulations Under the Textile Fiber Products Identification Act, 16 CFR part 303, require that:

> **§ 303.15 Required label and method of affixing.**
>
> (a) A label is required to be affixed to each textile product and, where required, to its package or container in a secure manner. Such label shall be conspicuous and shall be of such durability as to remain attached to the product and its package throughout any distribution, sale, resale and until sold and delivered to the ultimate consumer.

Similarly, the Commission's Guides for Select Leather and Imitation Leather Products, 16 CFR part 24, also address the form of disclosures:

> § 24.2(g) *Form of disclosures under this section.* All disclosures described in this section should appear in the form of a stamping on the product, or on a tag, label, or card attached to the product, and should be affixed so as to remain on or attached to the product until received by the consumer purchaser. . . .

The Commission seeks comment on whether a more flexible provision would provide sufficient guidance to industry on expected labeling requirements and adequately protect consumers. Specifically, the Commission seeks comment on the following questions:

Section 305.13 Layout, format, and placement of labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioners, and pool heaters.

a. Should the Commission revise this section of the Rule to require only that the layout, type style, and setting be clear and conspicuous, and that the labels be sufficiently durable and applied with an adhesive whose capacity is sufficient to prevent dislodgment of the labels during normal handling throughout the chain of distribution to the retailer or consumer? Why or why not?

b. With respect to the provisions regarding the adhesive for the labels, is the inclusion of the safe harbor regarding the suggested peel capacity in the current provision interpreted by industry as a required standard?

c. What are the costs and benefits of the current provision for consumers and businesses?

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[14] *See* DOE TSD, Chapter 3 at 24–25 and Ch. 5 at 5–20. Using estimates for the most energy consumptive models based on the DOE standards, the ranges by size category expressed in yearly energy consumption are: (1) Less than 6,000 Btu/hr: (375–753 kWh/yr), (2) 6,000 to 7,999 Btu/hr: (663–916 kWh/yr), and (3) 8,000 Btu/yr or greater: (807–1034 kWh-yr).

[15] 81 FR at 62682; and 82 FR at 29231–29232.

[16] 82 FR 29231.

[17] 82 FR 1786 (Jan. 6, 2017); and 82 FR 24211 (May 26, 2017).

d. Would a more flexible provision provide sufficient guidance to industry on the expected labeling requirements?

e. How would a more flexible provision affect the costs and benefits of the Rule for consumers and businesses, particularly small businesses?

f. If this Section of the Rule were modified to include a more flexible provision, should use of the specific labeling requirements in the prior version be a form of safe harbor for industry? Why or why not?

Section 305.20 Labeling for central air conditioning, heat pumps, and furnaces.

a. Should the Commission revise this section of the Rule to require only that the layout, type style and setting be clear and conspicuous, and that the labels be sufficiently durable and applied with an adhesive whose capacity is sufficient to prevent dislodgment of the labels during normal handling throughout the chain of distribution to the retailer or consumer? Why or why not?

b. With respect to the provisions regarding the adhesive for the labels, is the inclusion of the safe harbor regarding the suggested peel capacity in the current provision interpreted by industry as a required standard?

c. What are the costs and benefits of the current provision for consumers and businesses?

d. Would a more flexible provision provide sufficient guidance to industry on the expected labeling requirements?

e. How would a more flexible provision affect the costs and benefits of the Rule for consumers and businesses, particularly small businesses?

f. If this Section of the Rule were modified to include a more flexible provision, should use of the specific labeling requirements in the prior version be a form of safe harbor for industry? Why or why not?

V. Request for Comment

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 9, 2020. Write ''Portable Air Conditioners, Matter No. R611004'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it through *https://www.regulations.gov,* by following the instruction on the web-based form provided.

If you file your comment on paper, write ''Portable Air Conditioners, Matter No. R611004'' 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 C), 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 C), 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, *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 that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov*—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this NPRM 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 June 9, 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.*

Because written comments appear adequate to present the views of all interested parties, the Commission has not scheduled an oral hearing regarding these proposed amendments. Interested parties may request an opportunity to present views orally. If such a request is made, the Commission will publish a document in the **Federal Register** stating the time and place for such oral presentation(s) and describing the procedures that will be followed. Interested parties who wish to present oral views must submit a hearing request, on or before June 9, 2020, in the form of a written comment that describes the issues on which the party wishes to speak. If there is no oral hearing, the Commission will base its decision on the written rulemaking record.

VI. Paperwork Reduction Act

The current Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute information collection requirements as defined by the Paperwork Reduction Act (''PRA'').[18] OMB has approved the Rule's existing information collection requirements through December 31, 2022 (OMB Control No. 3084–0069). The amendments include new labeling requirements for portable air conditioners that constitute information collections under the PRA. Accordingly, the Commission is seeking OMB clearance specific to the Rule amendments.[19]

Burden estimates below are based on Census data, DOE figures and estimates,

[18] 44 U.S.C. 3501 *et seq; see also* 5 CFR 1320.3(c).

[19] The PRA analysis for this rulemaking focuses strictly on the information collection requirements created by and/or otherwise affected by the amendments. Unaffected information collection provisions have previously been accounted for in past FTC analyses under the Rule and are covered by the current PRA clearance from OMB.

public comments, general knowledge of manufacturing practices, and trade association advice and figures. The FTC estimates that there are about 150 basic models of portable air conditioners (*i.e.,* units with essentially identical physical and electrical characteristics). In addition, FTC staff estimates that there are 45 portable air conditioner manufacturers and 1,500,000 portable air conditioner units shipped each year in the U.S. The FTC seeks comment on the following estimates:

Reporting: The Rule requires that manufacturers of covered products annually submit a report for each model in current production containing the same information that must be submitted to the Department of Energy pursuant to 10 CFR part 429. In lieu of submitting the required information to the Commission, manufacturers may submit such information to DOE directly via the agency's Compliance Certification Management System, available at *https://regulations.doe.gov/ccms,* as provided by 10 CFR 429.12. Because manufacturers are already required to submit these reports to DOE, FTC staff estimates that any additional burden associated with providing the information to the FTC is minimal. FTC staff estimates that the average reporting burden for manufacturers of portable air conditioners will be approximately 15 hours per manufacturer. Based on this estimate, the annual reporting burden for manufacturers of portable air conditioners is 675 hours (15 hours × 45 manufacturers).[20] Staff estimates that information processing staff, at an hourly rate of $16.24,[21] will typically perform the required tasks, for an estimated annual labor cost of $10,962.

Labeling: The proposed amendments require that manufacturers label portable air conditioners. The burden imposed by this requirement consists of the time needed to draft labels and incorporate them onto package designs. Since EPCA and the Rule specify the content and format for the required labels and FTC staff provide online label templates, manufacturers need only input the energy consumption figures and other product-specific information derived from testing. FTC staff estimates that the time to incorporate the required information into labels and label covered products is five hours per basic model. Accordingly, staff estimates that the approximate annual burden involved in labeling covered products is 750 hours [150 basic models × 5 hours]. Staff estimates that information processing staff, at an hourly rate of $16.24,[22] will typically perform the required tasks, for an estimated annual labor cost of $12,180.

Testing: Manufacturers of portable air conditioners must test each basic model they produce to determine energy usage, but the majority of tests conducted are required by DOE rules. As a result, it is likely that only a small portion of the tests conducted are attributable to the Rule's requirements. In addition, manufacturers need not subject each basic model to testing annually; they must retest only if the product design changes in such a way as to affect energy consumption. FTC staff estimates that manufacturers will require approximately 36 hours for testing of portable air conditioners,[23] and that 25% of all basic models are tested annually due to the Rule's requirements. Accordingly, the estimated annual testing burden for portable air conditioners is 1,368 hours ((150 basic models × 25%) × 36 hours). Staff estimates that engineering technicians, at an hourly rate of $28.37,[24] will typically perform the required tasks, for an estimated annual labor cost of $38,300.

Recordkeeping: The Rule also requires manufacturers of covered products to retain records of test data generated in performing the tests to derive information included on labels. *See* 16 CFR 305.21. The FTC estimates that the annual recordkeeping burden for manufacturers of portable air conditioners will be approximately one minute per basic model to store relevant data. Accordingly, the estimated annual recordkeeping burden would be approximately 3 hours (150 basic models × one minute). Staff estimates that information processing staff, at an hourly rate of $16.24,[25] will typically perform the required tasks, for an estimated annual labor cost of $50.

Online and Retail Catalog Disclosures: Staff estimates that there are approximately 400 sellers of products covered under the Rule who are subject to the Rule's catalog disclosure requirements. Staff has previously estimated that covered online and catalog sellers spend approximately 17 hours per year to incorporate relevant product data for products that are currently covered by the Rule. Staff estimates that the portable air conditioner requirements will add one additional hour per year in incremental burden per seller. Staff estimates that these additions will result in an incremental burden of 400 hours (400 sellers × one hour annually). Staff estimates that information processing staff, at an hourly rate of $16.24,[26] will typically perform the required tasks, for an estimated incremental annual labor cost of $6,496.

Estimated annual non-labor cost burden: Staff anticipates that manufacturers are not likely to require any significant capital costs to comply with the proposed amendments.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'')[27] requires that the Commission conduct an analysis of the anticipated economic impact of the proposed amendment on small entities. The RFA requires that the Commission provide an Initial Regulatory Flexibility Analysis (''IRFA'') with a proposed rule and a Final Regulatory Flexibility Analysis (''FRFA'') with a final rule, if any, unless the Commission certifies that the rule will not have a significant economic impact on a substantial number of small entities.[28] The Commission does not anticipate that the proposed rule will have a significant economic impact on a substantial number of small entities, but it recognizes that some of the affected manufacturers may qualify as small businesses under the relevant thresholds. Therefore, based on available information, the Commission certifies that amending the Rules as proposed will not have a significant economic impact on a substantial number of small businesses.

The Commission estimates that the amendments will apply to 300 online and paper catalog sellers of covered products and about 45 portable air conditioner manufacturers. The Commission expects that approximately 150 of these various entities qualify as small businesses.

[20] In earlier comments, AHAM (#681–00012) estimated that the data entry involved in filing reports with the FTC is not particularly burdensome, but estimated that other tasks involved in reporting (such as performing the required testing and gathering information) could take as long as 40 hours per manufacturer. As noted above, however, testing and reporting are required and accounted for in DOE regulations. As a result, staff estimates that the primary burdens associated with reporting are due to DOE requirements.

[21] These labor cost estimates are derived from the Bureau of Labor Statistics figures in ''Table 1.'' National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2018,'' *available at: https://www.bls.gov/news.release/ocwage.t01.htm.*

[22] *Id.*

[23] AHAM estimated manufacturers would require 32 hours per model for testing and up to 4 hours for preparing the test data. AHAM Comment, #681–0016.

[24] *See supra* note 20.

[25] *Id.*

[26] *Id.*

[27] 5 U.S.C. 601–612.

[28] 5 U.S.C. 605. The proposed conforming changes to central air conditioner descriptors will have no impact on the Rule's current burden.

Accordingly, this document serves as notice to the Small Business Administration of the FTC's certification of no effect. To ensure the accuracy of this certification, however, the Commission requests comment on whether the proposed rule will have a significant impact on a substantial number of small entities, including specific information on the number of entities that would be covered by the proposed rule, the number of these companies that are small entities, and the average annual burden for each entity. Although the Commission certifies under the RFA that the rule proposed in this notice would not, if promulgated, have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an IRFA in order to inquire into the impact of the proposed rule on small entities. Therefore, the Commission has prepared the following analysis:

A. Description of the Reasons That Action by the Agency Is Being Taken

The Commission is proposing expanded product coverage and additional improvements to the Rule to help consumers in their purchasing decisions for portable air conditioners.

B. Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The objective of the rule is to improve the effectiveness of the current labeling program. The legal basis for the Rule is the Energy Policy and Conservation Act (42 U.S.C. 6292 *et seq.*).

C. Small Entities To Which the Proposed Rule Will Apply

Under the Small Business Size Standards issued by the Small Business Administration, appliance manufacturers qualify as small businesses if they have fewer than 500 employees. Catalog sellers qualify as small businesses if their sales are less than $8.0 million annually. The Commission estimates that there are approximately 150 entities subject to the proposed rule's requirements that qualify as small businesses.[29] The Commission seeks comment and information with regard to the estimated number and nature of small business entities for which the proposed rule would have a significant economic impact.

[29] 81 FR 62681 (Sept. 12, 2016).

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

The changes under consideration would slightly increase reporting or recordkeeping requirements associated with the Commission's labeling rules as discussed above. The amendments likely will increase compliance burdens by extending the labeling requirements to portable air conditioners. The Commission assumes that the label design change will be implemented by graphic designers.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any other federal statutes, rules, or policies that duplicate, overlap, or conflict with the proposed rule. The Commission invites comment and information on this issue.

F. Significant Alternatives to the Proposed Rule

The Commission seeks comment and information on the need, if any, for alternative compliance methods that, consistent with the statutory requirements, would reduce the economic impact of the rule on small entities. For example, the Commission is currently unaware of the need to adopt any special provisions for small entities. However, if such issues are identified, the Commission could consider alternative approaches such as extending the effective date of these amendments for catalog sellers to allow them additional time to comply beyond the labeling deadline set for manufacturers. If the comments filed in response to this notice identify small entities that are affected by the proposed rule, as well as alternative methods of compliance that would reduce the economic impact of the rule on such entities, the Commission will consider the feasibility of such alternatives and determine whether they should be incorporated into the final rule.

VIII. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record. *See* 16 CFR 1.26(b)(5).

IX. Proposed Rule Language

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

For the reasons stated above, the Commission proposes to amend part 305 of title 16 of the Code of Federal Regulations as follows:

PART 305—ENERGY AND WATER USE LABELING FOR CONSUMER PRODUCTS UNDER THE ENERGY POLICY AND CONSERVATION ACT (''ENERGY LABELING RULE'')

■ 1. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

PART 305—[AMENDED]

■ 2. In part 305, revise all references to ''seasonal energy efficiency ratio (SEER)'' to read ''seasonal energy efficiency ratio 2''; revise all references to ''SEER'' to read ''SEER2''; revise all references to ''heating seasonal performance factor'' to read ''heating seasonal performance factor 2''; revise all references to ''HSPF'' to read ''HSPF2''; revise all references to ''Energy Efficiency Ratio'' to read ''Energy Efficiency Ratio 2''; and revise all references to ''EER'' to read ''EER2.''

■ 3. In § 305.2,

■ a. Redesignate paragraph (l)(23) as (24);

■ b. Add new paragraph (23), and

■ c. Revise paragraph (p).

The revisions read as follows:

§ 305.2 Definitions.

* * * * *

(l) * * *

(23) Portable air conditioners.

* * * * *

(p) *Energy efficiency rating* means the following product-specific energy usage descriptors: Annual fuel utilization efficiency (AFUE) for furnaces; combined energy efficiency ratio (CEER) for room and portable air conditioners; seasonal energy efficiency ratio (SEER) for the cooling function of central air conditioners and heat pumps; heating seasonal performance factor (HSPF) for the heating function of heat pumps; airflow efficiency for ceiling fans; and, thermal efficiency (TE) for pool heaters, as these descriptors are determined in accordance with tests prescribed under section 323 of the Act (42 U.S.C. 6293). These product-specific energy usage descriptors shall be used in satisfying all the requirements of this part.

* * * * *

■ 4. In § 305.3, add paragraph (j) to read as follows:

§ 305.3 Description of appliances and consumer electronics.

* * * * *

(j) *Portable air conditioner* means a portable encased assembly, other than a packaged terminal air conditioner, room air conditioner, or dehumidifier, that delivers cooled, conditioned air to an enclosed space, and is powered by single-phase electric current. It includes a source of refrigeration and may include additional means for air circulation and heating.

■ 5. In § 305.7, add paragraph (e)(3) to read as follows:

§ 305.7 Prohibited Acts.

* * * * *

(e) * * *

(3) The requirements of this part shall not apply to any portable air conditioner produced before January 10, 2025.

* * * * *

■ 6. Amend § 305.10 by revising paragraph (f) to read as follows:

§ 305.10 Determinations of capacity.

* * * * *

(f) *Room air conditioners and portable air conditioners.* The capacity shall be the cooling capacity in Btu per hour, as determined according to appendix F to 10 CFR part 430, subpart B, but rounded to the nearest value ending in hundreds that will satisfy the relationship that the energy efficiency value used in representations equals the rounded value of capacity divided by the value of input power in watts. If a value ending in hundreds will not satisfy this relationship, the capacity may be rounded to the nearest value ending in 50 that will.

* * * * *

■ 7. In § 305.11, revise paragraph (b)(1) to read as follows:

§ 305.11 Submission of data.

* * * * *

(b)(1) All data required by § 305.11(a) except serial numbers shall be submitted to the Commission annually, on or before the following dates:

Product category	Deadline for data submission
Refrigerators	Aug. 1.
Refrigerators-freezers	Aug. 1.
Freezers	Aug. 1.
Central air conditioners	July 1.
Heat pumps	July 1.
Dishwashers	June 1.
Water heaters	May 1.
Room air conditioners	July 1.
Portable air conditioners	Feb. 1.
Furnaces	May 1.
Pool heaters	May 1.
Clothes washers	Oct. 1.
Fluorescent lamp ballasts	Mar. 1.
Showerheads	Mar. 1.
Faucets	Mar. 1.
Water closets	Mar. 1.
Ceiling fans	Mar. 1.
Urinals	Mar. 1.
Metal halide lamp fixtures	Sept. 1.
General service fluorescent lamps.	Mar. 1.
Medium base compact fluorescent lamps.	Mar. 1.
General service incandescent lamps.	Mar. 1.
Televisions	June 1.

* * * * *

■ 8. Amend § 305.13 by revising the section heading and adding paragraph (e)(3) to read as follows:

§ 305.13 Layout, format, and placement of labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters, room air conditioners, portable air conditioners, and pool heaters.

* * * * *

(e) * * *

* * * * *

(3) *Package labels for certain products.* Labels for electric instantaneous water heaters shall be printed on or affixed to the product's packaging in a conspicuous location. Labels for room air conditioners produced on or after October 1, 2019 and portable air conditioners produced on or after January 10, 2025, shall be printed on or affixed to the principal display panel of the product's packaging. The labels for electric instantaneous water heaters, room air conditioners, and portable air conditioners shall be black type and graphics on a process yellow or other neutral contrasting background.

* * * * *

■ 9. In § 305.18 revise the section heading to read as follows:

§ 305.18 Label content for room air conditioners and portable air conditioners.

* * * * *

■ 10. Amend § 305.20 by revising paragraphs (g)(11) through (14) to read as follows:

§ 305.20 Labeling for central air conditioners, heat pumps, and furnaces.

* * * * *

(g) * * *

(11) For any single-package air conditioner with a minimum Energy Efficiency Ratio 2 (EER2) of at least 10.6, any split system central air conditioner with a rated cooling capacity of at least 45,000 Btu/h and minimum efficiency ratings of at least 13.8 SEER2 and 11.2 EER2 or at least 15.2 SEER2 and 9.8 EER2, and any split-system central air conditioners with a rated cooling capacity less than 45,000 Btu/h and minimum efficiency ratings of at least 14.3 SEER2 and 11.7 EER2 or at least 15.2 SEER2 and 9.8 EER2, the label must contain the following regional standards information:

(i) A statement that reads:

Notice Federal law allows this unit to be installed in all U.S. states and territories.

(ii) For split systems, a statement that reads:

Energy Efficiency Ratio 2 (EER2): The installed system's minimum EER2 is ____.

(iii) For single-package air conditioners, a statement that reads:

Energy Efficiency Ratio 2 (EER2): This model's EER2 is [____].

(12) For any split system central air conditioner with a rated cooling capacity of at least 45,000 Btu/h and minimum efficiency ratings of at least 13.8 SEER2 but lower than 11.2 EER2 or at least 15.2 SEER2 but lower than 9.8 EER2, and any split-system central air conditioners with a rated cooling capacity less than 45,000 Btu/h and minimum efficiency ratings of at least 14.3 SEER2 but lower than 11.7 EER2 or at least 15.2 SEER2 but lower than 9.8 EER2, the label must contain the following regional standards information.

(i) A statement that reads:

Notice Federal law allows this unit to be installed only in: AK, AL, AR, CO, CT, DC, DE, FL, GA, HI, ID, IL, IA, IN, KS, KY, LA, MA, ME, MD, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VT, WA, WV, WI, WY and U.S. territories. Federal law prohibits installation of this unit in other states.

(ii) A map appropriate for the model and accompanying text as illustrated in the sample label 7 in appendix L of this part.

(iii) A statement that reads:

Energy Efficiency Ratio 2 (EER2): The installed system's minimum EER2 is ____.

(13) For any split system central air conditioner with a rated cooling capacity of at least 45,000 Btu/h and a minimum rated efficiency rating less than 13.8 SEER2, and any split-system central air conditioners with a rated cooling capacity less than 45,000 Btu/h and minimum efficiency ratings of less than 14.3 SEER2, the label must contain the following regional standards information:

(i) A statement that reads:

Notice Federal law allows this unit to be installed only in: AK, CO, CT, ID, IL, IA, IN, KS, MA, ME, MI, MN, MO, MT, ND, NE, NH, NJ, NY, OH, OR, PA, RI, SD, UT, VT, WA, WV, WI, and WY.

Federal law prohibits installation of this unit in other states.

(ii) A map appropriate for the model and accompanying text as illustrated in the sample label 7 in appendix L of this part.

(iii) A statement that reads:

Energy Efficiency Ratio 2 (EER2): The installed system's minimum EER2 is ____.

(14) For any single-package air conditioner with a minimum EER2 below 10.6, the label must contain the following regional standards information:

(i) A statement that reads:

Notice Federal law allows this unit to be installed only in: AK, AL, AR, CO, CT, DC, DE, FL, GA, HI, ID, IL, IA, IN, KS, KY, LA, MA, ME, MD, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NY, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VT, WA, WV, WI, WY and U.S. territories. Federal law prohibits installation of this unit in other states.

(ii) A map appropriate for the model and accompanying text as illustrated in the sample label 7 in appendix L of this part.

* * * * *

■ 11. In § 305.27 revise paragraph (a)(1)(i) to read as follows:

§ 305.27 Paper catalogs and websites.

(a) * * *

(1) Content.

(i) Products required to bear EnergyGuide or Lighting Facts labels. All websites advertising covered refrigerators, refrigerator-freezers, freezers, room air conditioners, portable air conditioners, clothes washers, dishwashers, ceiling fans, pool heaters, central air conditioners, heat pumps, furnaces, general service lamps, specialty consumer lamps (for products offered for sale after May 2, 2018), and televisions must display, for each model, a recognizable and legible image of the label required for that product by this part. The website may hyperlink to the image of the label using the sample EnergyGuide and Lighting Facts icons depicted in appendix L of this part. The website must hyperlink the image in a way that does not require consumers to save the hyperlinked image in order to view it.

* * * * *

■ 12. Redesignate Appendix E to Part 305 as Appendix E1 to Part 305 and add Appendix E2 to Part 305 to read as follows:

APPENDIX E2 TO PART 305—PORTABLE AIR CONDITIONERS RANGE INFORMATION

Seasonally adjusted cooling capacity range (Btu/h)	Range of estimated annual energy costs (dollars/year)	
	Low	High
Less than 6,000 Btu	$48	$98
6,000 to 7,999 Btu	87	120
8,000 or greater Btu	104	135

■ 13. Revise Appendix K2 to Part 305 to read as follows:

APPENDIX K2 TO PART 305—REPRESENTATIVE AVERAGE UNIT ENERGY COSTS FOR DISHWASHER, ROOM AIR CONDITIONER, PORTABLE AIR CONDITIONERS LABELS

[This Table contains the representative unit energy costs that must be utilized to calculate estimated annual energy cost disclosures required under §§ 305.16, 305.18, and 305.27 for dishwashers, room air conditioners, and portable air conditioners. This Table is based on information published by the U.S. Department of Energy in 2017.]

Type of energy	In commonly used terms	As required by DOE test procedure
Electricity	¢13.00/kWh [1]	$.1300/kWh.
Natural Gas	$1.05/therm [2] or $10.86/MCF [3]	$0.00001052/Btu.
No. 2 Heating Oil	$2.59/gallon [4]	$0.00001883/Btu.
Propane	$1.53/gallon [5]	$0.00001672/Btu.
Kerosene	$3.01/gallon [6]	$0.00002232/Btu.

[1] kWh stands for kilowatt hour. kWh = 3,412 Btu.
[2] therm = 100,000 Btu.
[3] MCF stands for 1,000 cubic feet. For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,032 Btu (British thermal units).
[4] For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 137,561 Btu.
[5] For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,333 Btu.
[6] For the purposes of this table, one gallon of kerosene has an energy equivalence of 135,000 Btu.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

Concurring Statement of Commissioner Christine S. Wilson Energy Labeling Rule

I support the Commission's decision to issue a **Federal Register** Notice seeking comment on the Energy Labeling Rule. The Notice seeks comment on proposed requirements for the EnergyGuide labels for portable air conditioners and proposes conforming amendments to reflect upcoming Department of Energy changes to efficiency descriptors for central air conditioners. In addition, the Notice seeks comment on the more highly detailed and prescriptive aspects of the Rule. In a prior request for comment on this Rule, I questioned whether these prescriptive requirements were necessary and encouraged the Commission to rethink its approach to the scope and detail of these

requirements.[1] I am pleased that the Commission is seeking comment on this issue.

Specifically, this Notice seeks comment on whether a more flexible approach to labeling obligations would provide sufficient guidance to businesses while simultaneously fulfilling the Commission's mandate under the statute.[2] The current requirements are highly prescriptive. For example, the Rule specifies the trim size dimensions for labels, including the precise width and length (*e.g.,* width 5¼ to 5½ inches (13.34 cm to 13.97 cm)); the number of picas for the copy set (between 27 and 29); the type style and setting; the weight of the paper stock on which the labels are printed (not less than 58 pounds per 500 sheets (25″ × 38″) or equivalent); and a suggested minimum peel adhesive capacity of 12 ounces per square inch. These highly prescriptive requirements depart significantly from the approach employed by other Commission Rules and Guides that contain labeling requirements. For example, the Rules and Regulations Under the Textile Fiber Products Identification Act provide simply that the ''label shall be conspicuous and shall be of such durability as to remain attached to the product and its package throughout any distribution, sale, resale and until sold and delivered to the ultimate consumer.'' [3] The Commission's Guides for Select Leather and Imitation Leather Products similarly require that the label ''should be affixed so as to remain on or attached to the product until received by the consumer purchaser.'' [4]

While I have great faith in markets to produce the best results for consumers, the prerequisite of healthy competition is sometimes absent. In limited situations, regulations can help address market failures. But for regulations to succeed in restoring market forces, they must eliminate the market failure in the most narrow and targeted manner possible. Regulatory ''fixes'' that extend beyond simply correcting the problem may upset the balance of forces in the rest of the market and, ultimately, may harm consumers.[5] That is why I share the President's goal of eliminating unnecessary and burdensome regulatory requirements.[6]

The Trump administration has called for agencies to carefully review regulations. I am proud that the FTC has had a long tradition of proactively reviewing our rules to ensure our regulatory program protects consumers while seeking to avoid the unnecessary imposition of costs on businesses.[7] In the last few years, the FTC has repealed or streamlined significantly a number of Rules and Guides. For example, the FTC recently repealed the Picture Tube Rule, which the Commission determined was no longer necessary to prevent deceptive claims regarding the size of television screens.[8] The FTC also revised the Jewelry Guides, removing outdated provisions as well as lifting restrictions on the marketing of gold-content products.[9] Just last year, the FTC rescinded the Nursery Guides—rules governing the sale of outdoor plants—because they had outlived their utility for consumers and industry.[10]

I applaud the FTC's regular, systematic review of all of its rules and guides on a rotating basis. When the Commission conducts a review of a Rule or Guide, we regularly ask if the regulation is still necessary. We ask about the costs and benefits to businesses and consumers; conflicts with state, local, federal or international laws; whether consumer perceptions have changed; and the effect, if any, that changes in relevant technological, economic or environmental conditions have had on Rules and Guides. This process lends transparency to the Commission's regulatory review. The Commission is receptive and responsive to the comments, often making regulatory revisions to address changing market forces.

Freeing businesses from unnecessarily prescriptive requirements benefits consumers. Although the Commission long ago abandoned some of the most egregious instances of invasive regulatory zeal that earned it the sobriquet of the ''second most powerful legislature in Washington,'' [11] forswearing new mistakes is not enough. Accordingly, I am pleased to see the Agency reviewing the more prescriptive aspects of this Rule and am committed to an ongoing practice of identifying opportunities to streamline our regulations by updating, modifying, or eliminating outdated, burdensome, or unnecessary provisions.

[FR Doc. 2020–06960 Filed 4–9–20; 8:45 am]

BILLING CODE 6750–01–P

[1] See Dissenting Statement of Commissioner Christine S. Wilson on the Notice of Proposed Rulemaking: Energy Labeling Rule (Dec. 10, 2018), *https://www.ftc.gov/public-statements/2018/12/dissenting-statement-commissioner-christine-s-wilson-notice-proposed.*

[2] Energy Policy and Conservation Act, 42 U.S.C. 6295.

[3] 16 CFR part 303.15.

[4] 16 CFR part 24.2(g).

[5] See, *e.g.,* Howard Beales, et al., ''The Proper Role of Rules in a Gloriously Unruly Economy,'' released by the Regulatory Transparency Project of the Federalist Society, August 28, 2019, *https://regproject.org/paper/the-proper-role-of-rules-in-a-gloriously-unruly-economy/* (discussing large and unintended consequences of burdensome regulations).

[6] Executive Order 13,771, 82 FR 9339 (Feb. 3, 2017) (imposing a rule that for every new regulation created, two must be eliminated).

[7] In the 1990s, the Commission rescinded 24 Guides (addressing, *e.g.,* fallout shelters, the decorative wall paneling industry, and the dog and cat food industry) and 13 trade rules, including those concerning the misuse of ''automatic'' or terms of similar import as descriptive of household electric sewing machines; deceptive advertising and labeling as to size of tablecloths and related products; and the Frosted Cocktail Glass Rule.

[8] See *https://www.ftc.gov/policy/federal-register-notices/16-cfr-part-410-deceptive-advertising-sizes-viewable-pictures-shown.*

[9] See *https://www.ftc.gov/public-statements/2018/07/statement-basis-purpose-final-revisions-jewelry-guides.*

[10] See Press Release, Fed. Trade Comm'n., ''FTC Approves Proposal Rescinding Nursery Guides,'' (June 4, 2019), *https://www.ftc.gov/news-events/press-releases/2019/06/ftc-approves-proposal-rescinding-nursery-guides.*

[11] See, *e.g.,* J. Howard Beales, III & Timothy J. Muris, FTC Consumer Protection at 100: 1970s Redux or Protecting Markets to Protect Consumers?, 83 Geo. Wash. L. Rev. 2157, 2159 (2015) (quoting Jean Carper, The Backlash at the FTC, Wash. Post, Feb. 6, 1977, at C1).

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2020–0201]

RIN 1625–AA00

Safety Zone; Lake of the Ozarks, Mile 1.5 on the Gravois Arm of the Lake of the Ozarks, Lake Ozark, MO

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain waters of the Lake of the Ozarks. This action is necessary to provide for the safety of life on these navigable waters during a fireworks display scheduled for June 6, 2020. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before May 11, 2020.

ADDRESSES: You may submit comments identified by docket number USCG–2020–0201 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for

Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Christian Barger, Sector Upper Mississippi River Waterways Management Division, U.S. Coast Guard; telephone 314–269–2560, email *Christian.J.Barger@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Upper Mississippi River
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On March 14, 2020, AM Pyrotechnics, LLC notified the Coast Guard that it will be conducting a firework display from 9:00 p.m. through 9:30 p.m. on June 6, 2020. The fireworks are to be launched from a barge located at mile 1.5 on the Gravois Arm of the Lake of the Ozarks in Lake Ozark, MO. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with the fireworks to be used in this display would be a safety concern for anyone within a 420-foot radius of the barge.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 420-foot radius of the fireworks barge before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 8:30 through 10 p.m. on June 6, 2020 to allow for moving the firework barge into place, conducting the display, and removal of the barge. The safety zone would cover all navigable waters within 420 feet of the barge located at mile 1.5 on the Gravois Arm of the Lake of the Ozarks in Lake Ozark, MO. The duration of the zone is intended to ensure the safety of persons, vessels, and these navigable waters before, during, and after the scheduled 9:00 p.m. to 9:30 p.m. fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The COTP or a designated representative will inform the public of the enforcement dates and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone, through Local Notices to Mariners (LNM).

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the temporary safety zone. This action involves a firework display that impacts only a half mile stretch of Lake of the Ozarks for one and a half hours.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of

their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a temporary safety zone lasting only one and a half hours on one day that would prohibit entry within 420 feet of a firework barge. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's Correspondence System of Records notice (84 FR 48645, September 26, 2018).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0201 to read as follows:

§ 165.T08–0201 Safety Zone; Lake of the Ozarks, Mile 1.5 on the Gravois Arm of the Lake of the Ozarks, Lake Ozark, MO

(a) *Location.* The following area is a safety zone: Lake of the Ozarks, Mile 1.5 on the Gravois Arm of the Lake of the Ozarks, Lake Ozark, MO.

(b) *Period of enforcement.* This section is effective from 8:30 p.m. through 10 p.m. on June 6, 2020.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, persons and vessels are prohibited from entering the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Upper Mississippi River.

(2) Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted by telephone at 314–269–2332.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative while navigating in the regulated area.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the enforcement date and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone through Local Notices to Mariners (LNM).

Dated: April 6, 2020.

S.A. Stoermer,

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

[FR Doc. 2020–07631 Filed 4–9–20; 8:45 am]

BILLING CODE 9110–04–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1192

[Docket No. ATBCB–2020–0002]

RIN 3014–AA42

Americans With Disabilities Act Accessibility Guidelines for Transportation Vehicles; Rail Vehicles; Extension of Comment Period

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) is extending until July 14, 2020 the comment period for the document entitled ''Americans with Disabilities Act Accessibility Guidelines for Transportation Vehicles; Rail Vehicles'' that appeared in the **Federal Register** on February 14, 2020. In that document, the Access Board requested comments by May 14, 2020. The Access Board is taking this action to allow interested persons additional time to submit comments.

DATES: The comment period for the advance notice of proposed rulemaking published February 14, 2020, at 85 FR 8516, is extended. Comments should be received on or before July 14, 2020.

ADDRESSES: Submit comments by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: docket@access-board.gov.* Include docket number ATBCB–2020–0002 in the subject line of the message.
- *Fax:* 202–272–0081.
- *Mail or Hand Delivery/Courier:* Office of Technical and Information Services, U.S. Access Board, 1331 F Street NW, Suite 1000, Washington, DC 20004–1111.

All comments received, including any personal information provided, will be posted without change to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Technical information: Juliet Shoultz, (202) 272–0045, Email: *shoultz@access-board.gov.* Legal information: Wendy Marshall, (202) 272–0043, *marshall@access-board.gov.*

SUPPLEMENTARY INFORMATION: On February 14, 2020, the Architectural and Transportation Barriers Compliance Board (Access Board) issued an advance notice of proposed rulemaking to begin the process of updating its existing accessibility guidelines for rail vehicles covered by the Americans with Disabilities Act. See 85 FR 8516, February 14, 2020. In that document, the Access Board requested comments by May 14, 2020.

On March 26, 2020, the American Public Transit Association (APTA) requested that the 90-day comment period be extended for an additional 60 days to allow for a more thorough, careful review of the 25 technical questions posed by the Board. APTA continued that ''given the pandemic and national emergency declarations, our members who are concerned about this issue have been pulled away to work on essential functions. Thus, the additional time would allow APTA members to collaborate and develop thoughtful responses to the Access Board's questions.''

Although the Access Board has already provided a 90-day comment period and held a public hearing on the ANPRM, the Board will provide additional time for the public to submit comments.

David M. Capozzi,

Executive Director.

[FR Doc. 2020–07292 Filed 4–9–20; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8340

[LLWO430000.L12200000.XM0000.20x 24 1A]

RIN 1004–AE72

Increasing Recreational Opportunities Through the Use of Electric Bikes

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to amend its off-road vehicle regulations to add a definition for electric bikes (e-bikes) and, where certain criteria are met and an authorized officer expressly determines through a formal decision that e-bikes should be treated the same as non-motorized bicycles, expressly exempt those e-bikes from the definition of off-road vehicles. This proposed change would facilitate increased recreational opportunities for all Americans, especially those with physical limitations, and would encourage the enjoyment of lands and waters managed by the BLM.

DATES: Please submit comments on or before June 9, 2020.

ADDRESSES: You may submit comments, identified by the number RIN 1004–AE72, by any of the following methods:

—*Mail/Personal or messenger delivery:* U.S. Department of the Interior, Director (630), Bureau of Land Management, Mail Stop 2134 LM, 1849 C St. NW, Attention: RIN 1004–AE72, Washington, DC 20240.

—*Federal eRulemaking portal: http://www.regulations.gov.* In the Searchbox, enter ''RIN 1004–AE72'' and click the Search button. Follow the instruction at this website.

FOR FURTHER INFORMATION CONTACT: Britta Nelson, National Conservation Lands and Community Partnerships, 303–236–0539. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

Executive Summary

I. Public Comment Procedures

You may submit comments, identified by the number RIN 1004–AE72, by any of the methods described in the **ADDRESSES** section.

Please make your comments on the proposed rule as specific as possible, confine them to issues pertinent to the proposed rule, and explain the reason for any changes you recommend. Where possible, your comments should reference the specific section or paragraph of the proposal that you are addressing. The comments and recommendations that will be most useful and likely to influence agency decisions are:

1. Those supported by quantitative information or studies; and

2. Those that include citations to, and analyses of, the applicable laws and regulations.

The BLM is not obligated to consider or include in the Administrative Record for the final rule comments that we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

Comments, including names and street addresses of respondents, will be available for public review at the address listed under ''**ADDRESSES**: Personal or messenger delivery'' during regular hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays.

Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

II. Background

The Federal Land Policy and Management Act (FLPMA) directs the BLM to manage public lands it administers for multiple use and sustained yield (unless otherwise provided by law) and to provide for outdoor recreation (43 U.S.C. 1701). Many visitors bicycle on BLM-managed public lands. Improvements in bicycle technology have made bicycling an option for more people and have made public lands more accessible to cyclists. One bicycle design modification growing in popularity is the addition of a small electric motor that provides an electric power assist to the operation of the bicycle and reduces the physical

exertion demands of the rider. Electric bicycles (also known as e-bikes) are available in an ever-expanding range of design types (urban commuter, full suspension mountain, fat-tire, gear hauler bikes, etc.) and electric assist capabilities (limited by speed, wattage, output algorithms, etc.). E-bikes are commonly used in different capacities, such as transportation and recreation. While they come in many varieties, the proposed rule focuses on Class 1, 2, and 3 e-bikes.

The integration of a small electric motor onto bicycles has reduced the physical demand required to operate an e-bike and, in turn, has increased the public's access to recreational opportunities, including for people with limitations stemming from age, illness, disability or fitness, and in more challenging environments, such as high altitudes or mountainous terrain. The integration of a small electric motor onto bicycles has also created uncertainty regarding whether e-bikes should be treated in the same manner as other types of bicycles or as motorized vehicles subject to the BLM's off-road vehicle regulations at 43 CFR part 8340.

On August 29, 2019, the Secretary of the Interior issued Secretary's Order (S.O.) 3376 to address regulatory uncertainty on how agencies within the Department of the Interior should manage e-bikes. Specifically, S.O. 3376 set forth the policy of the Department of the Interior that e-bikes should be allowed where other, non-motorized types of bicycles are allowed and not allowed where other, non-motorized types of bicycles are prohibited. S.O. 3376 directs the BLM to revise its off-road vehicle regulations at 43 CFR 8340.0–5 to be consistent with S.O. 3376. The National Park Service, Fish and Wildlife Service, and Bureau of Reclamation are also revising their regulations for consistency with S.O. 3376.

III. Discussion of Proposed Rule

Existing BLM regulations do not explicitly address the use of e-bikes on public lands. However, under the BLM's current Travel and Transportation Management Manual (MS–1626), e-bikes are managed as off-road vehicles, as defined at 43 CFR 8340.0–5(a), and are allowed only in those areas and on those roads or trails that are designated as open or limited to off-road vehicle use. Additionally, e-bikes currently must be operated in accordance with the regulations governing off-road vehicle use at 43 CFR subpart 8341.

The proposed rule would direct authorized officers to generally allow, through subsequent decision-making, Class 1, 2, and 3 e-bikes whose motorized features are being used as an assist to human propulsion on roads and trails upon which mechanized, non-motorized use is allowed, where appropriate. The authorization for Class 1, 2, and 3 e-bikes whose motorized features are being used as an assist to human propulsion to be used on roads and trails upon which mechanized, non-motorized use is allowed, would be included in a land-use planning or implementation-level decision. Such decisions would be made in accordance with applicable legal requirements, including compliance with the National Environmental Policy Act (NEPA). Under the proposed rule, where an authorized officer determines that Class 1, 2, and 3 e-bikes should be allowed on roads and trails upon which mechanized, non-motorized use is allowed, such e-bikes would be excluded from the definition of off-road vehicle at 43 CFR 8340.0–5(a) and would not be subject to the regulatory requirements in 43 CFR part 8340. Additionally, e-bikes excluded from the definition of off-road vehicle at 43 CFR 8340.0–5(a) would be afforded all the rights and privileges, and be subject to all of the duties, of a non-motorized bicycle. Under the proposed rule, authorized officers would not allow e-bikes where mechanized, non-motorized bicycles are prohibited.

A primary objective of the BLM's travel and transportation management is to establish a long-term, sustainable, multimodal travel network and transportation system that addresses the need for public, authorized, and administrative access to and across BLM-managed lands and related waters. Travel management planning occurs as part of regional or site-specific land use and implementation decisions. Such decisions typically involve public participation and must comply with NEPA. Travel management is an ongoing and dynamic process through which roads and trails for different modes of travel can be added and/or subtracted from the available travel system at any time through the appropriate planning and NEPA processes. These changes may be necessary based on access needs, resource objectives, and impacts to natural resources or the human environment. Any such decisions are made through an amendment to the existing land use plan, or through implementation level actions for a travel management plan.

Under current land use plans and travel management plans, the use of off-road vehicles (and, therefore, e-bikes) is currently allowed on the majority of roads and trails on BLM-administered public lands. The proposed rule would have no effect on the use of e-bikes and other motorized vehicles on such roads and trails; e-bikes, which the BLM currently manages as off-road vehicles, and other motorized vehicles could continue to use roads and trails upon which off-road vehicle use is currently allowed. However, the proposed rule would, by directing authorized officers to allow certain e-bike use where mechanized, non-motorized bicycle use is allowed, facilitate an increase in recreational opportunities for all Americans, especially those with physical limitations, and encourage the enjoyment of the Department of the Interior (DOI)-managed lands and waters.

The BLM expects that the changes directed by the proposed rule would result in an increase in e-bike ridership on public lands. The BLM recognizes that the appeal of many BLM-managed roads and trails to cyclists is the opportunity to experience a challenging road or trail which may have inherently limited ridership. Under the proposed rule, the use of an e-bike could cause increased ridership on these roads or trails. To address site-specific issues, the BLM would consider the environmental impacts from the use of e-bikes through a subsequent analysis. E-bike use would be subject to the governing land use plans, including conditions of use that may be specific to an area. The BLM requests information from the public on the potential social and physical impacts of e-bike use on public lands.

§ 8340.0–5 Definitions

The proposed rule would add a new definition for electric bicycles, or e-bikes, and define three classifications of e-bikes (see new paragraph (j) of this section). The proposed rule would also exclude e-bikes from the definition of off-road vehicle, pursuant to subsequent action by an authorized officer, where specific criteria are met (see new paragraph (a)(5) of this section).

Paragraph (a) of this section defines an off-road vehicle as ''any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain . . .'' and includes 5 exceptions. The proposed rule would move existing paragraph (a)(5) of this section to (a)(6) and add a new (a)(5) that addresses e-bikes. Under proposed paragraph (a)(5) of this section, an e-bike would be excluded from the definition of off-road vehicle if: (1) The e-bike is being used on roads and trails where mechanized, non-motorized use is allowed; (2) the e-bike

is not being used in a manner where the motor is being used exclusively to propel the e-bike; and (3) an authorized officer has expressly determined, as part of a land-use planning or implementation-level decision, that e-bikes should be treated the same as non-motorized bicycles on such roads and trails.

Notably, some e-bikes are capable of propulsion without pedaling. For example, Class 2 e-bikes allow for the motor to propel the rider without pedaling. Under the proposed rule, e-bikes operated in a fully motorized method that does not involve pedal assistance would not be eligible to be excluded from the definition of off-road vehicle at 43 CFR 8340.0–5(a) and would continue to be regulated as off-road vehicles.

New paragraph (j) of this section includes the definition for electric bicycles, or e-bikes. E-bikes may have 2 or 3 wheels and must have fully operable pedals. The electric motor for an e-bike may not exceed 750 watts (one horsepower). E-bikes must fall into one of three classes, as described in paragraphs (j)(1) through (3) of this section.

Proposed paragraph (j)(1) describes class 1 e-bikes, which are equipped with a motor that only provides assistance when the rider is pedaling and ceases to provide assistance when the speed of the bicycle reaches 20 miles per hour.

Proposed paragraph (j)(2) of this section describes class 2 e-bikes, which have a motor that in addition to pedal assistance, can propel the bicycle without pedaling. This propulsion and pedal assistance ceases to provide assistance when the speed of the bicycle reaches 20 miles per hour.

Proposed paragraph (j)(3) of this section describes class 3 e-bikes, which have a motor that only provides assistance when the rider is pedaling and ceases to provide assistance when the speed of the bicycle reaches 28 miles per hour.

The definition of e-bike in proposed paragraph (j), including the three classes of e-bikes included in that definition, is consistent with other DOI agencies which are also proposing revisions to their regulations to address e-bike use. The BLM believes that having the same definition as other DOI agencies will ensure consistent implementation across public lands administered by the DOI and help coordination with other local, State, and Federal agencies.

Considering that this technology is new and evolving, the BLM requests information from the public on use of Class 1, 2, and 3 e-bikes on roads and trails on public land.

Subpart 8342—Designation of Areas and Trails

Section 8342.2 Designation Procedures

The proposed rule would add a new paragraph (d) to this section that addresses how the BLM would issue decisions to authorize the use of e-bikes on public lands. Authorized officers would generally be encouraged to authorize the use of e-bikes whose motorized features are being used to assist human propulsion on roads and trails upon which mechanized, non-motorized use is allowed. The proposed rule provides authorized officers with discretion, however, to determine that the use of e-bikes (or certain classes of e-bikes) would be inappropriate on roads or trails.

This proposed rule would not, on its own, change the existing allowances for e-bike usage on BLM-administered public lands. In other words, no additional e-bike use would be allowed on BLM-administered public lands as a direct result of this proposed rule becoming effective. Rather, the proposed rule directs the BLM to specifically consider e-bike usage in future land use planning or implementation-level decisions. This new paragraph also provides the authorized officer with discretion to determine whether e-bike use generally, or the use of certain classes of e-bikes, would be inappropriate on certain roads or trails. While the BLM believes that increasing public access to public lands through the use of e-bikes would generally be appropriate on roads and trails upon which mechanized, non-motorized use is permitted, there are certain instances where that is not the case. For example, some trails may be particularly steep or narrow and the use of an e-bike at speeds higher than originally intended could present a danger to some users. In some situations, legislation or a presidential proclamation may restrict motorized use of a trail. Another example of where e-bike use might be limited is a non-motorized trail that originates on BLM public land and feeds into a trail system under the jurisdiction of another agency that does not allow e-bike use on that trail. Proposed paragraph (d) of this section would allow the BLM the flexibility to utilize local knowledge and determine the propriety of e-bike use on site-specific basis.

Under new paragraph (d) of this section, e-bikes being used on roads and trails where mechanized, non-motorized use is allowed pursuant to a decision by an authorized officer will be given the same rights and privileges of a traditional, non-motorized bicycle and will be subject to all of the duties of a traditional, non-motorized bicycle. While the BLM intends for this proposed rule to increase accessibility to public lands, e-bikes would not be given special access beyond what traditional, non-motorized bicycles are allowed. For example, e-bikes would not be allowed on roads or trails or in areas where traditional, non-motorized bicycle travel is prohibited, such as in designated wilderness.

IV. Procedural Matters

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has waived review of this proposed rule and, at the final rule stage, will make a separate decision as to whether the rule is a significant regulatory action as defined by Executive Order 12866.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

The proposed rule addresses how the BLM would allow visitors to operate e-bikes on public lands and directs the BLM to specifically address e-bike usage in future land-use planning or implementation-level decisions. The proposed rule would amend 43 CFR 8340.0–5 to define class 1, 2, and 3 of e-bikes. The proposed rule would direct authorized officers to generally allow, through subsequent decision-making in a land-use planning or implementation-level decision, Class 1, 2, and 3 e-bikes whose motorized features are being used as an assist to human propulsion on roads and trails upon which mechanized, non-motorized use is allowed, where appropriate. The proposed rule, where certain criteria are

met, would exclude e-bikes from the definition of off-road vehicle.

The proposed rule would not be self-executing. The proposed rule, in and of itself, would not change existing allowances for e-bike usage on BLM-administered public lands. It would neither allow e-bikes on roads and trails that are currently closed to off-road vehicles but open to mechanized, non-motorized bicycle use, nor affect the use of e-bikes and other motorized vehicles on roads and trails where off-road vehicle use is currently allowed. While the BLM intends for this proposed rule to increase accessibility to public lands, e-bikes would not be given special access beyond what traditional, non-motorized bicycles are allowed.

The BLM reviewed the requirements of the proposed rule and determined that it would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. For more detailed information, see the Economic and Threshold analysis prepared for this proposed rule. This analysis has been posted in the docket for the proposed rule on the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Searchbox, enter ''RIN 1004–AE72'', click the ''Search'' button, open the Docket Folder, and look under Supporting Documents.

Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

The BLM has complied with E.O. 13771 and the OMB implementation guidance for that order.[1] The proposed rule is not a significant regulation action as defined by E.O. 12866 or a significant guidance document. Therefore, the proposed rule is not an ''E.O. 13771 regulatory action,'' as defined by OMB guidance. As such, the proposed rule is not subject to the requirements of E.O. 13771.

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The RFA generally requires that Federal agencies prepare a regulatory flexibility analysis for rules subject to the notice-and-comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 500 *et seq.*), if the rule would have a significant economic impact, whether detrimental or beneficial, on a substantial number of small entities. See 5 U.S.C. 601–612. Congress enacted the RFA to ensure that government regulations do not unnecessarily or disproportionately burden small entities. Small entities include small businesses, small governmental jurisdictions, and small not-for-profit enterprises. The proposed rule is most likely to affect entities that participate in biking and other outdoor recreation. The industries most likely to be directly affected are listed in SBA Size Standards Table that follows, including the relevant SBA size standards.

SBA Size Standards Table

Industry	NAICS Code	Size standards in millions of dollars
Sporting Goods Stores	451110	$16.5
Scenic and Sightseeing Transportation, Land	487110	8.0
Recreational Goods Rental	532284	8.0

Based on these thresholds, the proposed rule may affect small entities. In addition to determining whether a substantial number of small entities are likely to be affected by this proposed rule, the BLM must also determine whether the proposed rule is anticipated to have a significant economic impact on those small entities. The proposed rule is most likely to affect entities that participate in biking and other outdoor recreation. The industries most likely to be directly affected include sporting goods stores, scenic and sightseeing land transportation, and recreational goods rental. The BLM generally expects that the proposed rule would facilitate increased recreational opportunities on public lands, although these impacts would occur after future site-specific decisions, not as a direct result of the proposed rule. For these reasons, the magnitude of the impact on any individual or group, including small entities, is expected to be negligible. There is no reason to expect that these changes would place an undue burden on any specific individual or group, including small entities.

Based on the available information, we conclude that the proposed rule will not have a significant impact on a substantial number of small entities. Therefore, a final Regulatory Flexibility Analysis is not required, and a Small Entity Compliance Guide is not required.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The proposed rule would not have a direct and quantifiable economic impact, but is intended to increase recreational opportunities on public lands.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This proposed rule would add a definition for e-bikes, direct the BLM to consider how they should be managed on public lands in future land-use planning and implementation-level decisions, and exclude e-bikes from the definition of off-road vehicle when certain criteria are met.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The BLM expects this rule to facilitate additional recreational opportunities on public lands, which would be beneficial

[1] Executive Office of the President, Office of Management and Budget, Executive Order 13771, January 30, 2017. 82 FR 9339. Available at *https://www.gpo.gov/fdsys/pkg/FR-2017-02-03/pdf/2017-02451.pdf.* See also, OMB Memorandum ''Regulatory Policy Officers at Executive Departments and Agencies Managing and Executive Directors of Certain Agencies and Commissions,'' April 5, 2017. Available at *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-21-OMB.pdf.*

to local economies on impacted public lands.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. The BLM will coordinate with impacted entities, as necessary and appropriate, when it makes land use planning decisions regarding the use of e-bikes on public lands in a particular area. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. This proposed rule would only impact public lands and how they are managed by the BLM regarding the use of e-bikes. A takings implication assessment is not required.

Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This proposed rule would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The BLM would coordinate with State and local governments, as appropriate, when making future planning decisions under this rule regarding the use of e-bikes on public lands. A federalism summary impact statement is not required.

Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)

The DOI strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required. This rulemaking is an administrative change that directs the BLM to address e-bike use in future land-use planning or implementation-level decisions. The proposed rule does not change existing allowances for e-bike usage on BLM-administered public lands. The rulemaking does not commit the agency to undertake any specific action, and the BLM retains the discretion to authorize e-bike use where appropriate. Tribal consultation would occur as required on a project-specific basis as potential e-bike opportunities are considered by the BLM.

Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act (PRA) is not required.

National Environmental Policy Act

The BLM does not believe that this rule would constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule, as proposed, would be categorically excluded from further analysis or documentation under NEPA in accordance with 43 CFR 46.210(i), which applies to:

Policies, directives, regulations, and guidelines that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case basis.

This proposed rule would not change the existing allowances for e-bike usage on public lands. It would neither allow e-bikes on roads and trails that are currently closed to off-road vehicles but open to mechanized, non-motorized bicycle use, nor affect the use of e-bikes and other motorized vehicles on roads and trails where off-road vehicle use is currently allowed. The proposed rule would (i) add a new definition for e-bikes; (ii) direct the BLM to specifically address e-bike usage in future land-use planning or implementation-level decisions; and (iii) set forth specific criteria for when e-bikes may be excluded from the definition of off-road vehicle at 43 CFR 8340.0–5(a). Before the public could use e-bikes on any roads or trails that are not currently opened to off-road vehicle use, an authorized officer of the BLM would have to issue a land-use planning or implementation-level decision allowing for such use. That decision would have to comply with applicable law, including NEPA. As such, the proposed rule is administrative and procedural in nature and would not result in any environmental effects. Moreover, the environmental effects associated with future land-use planning or implementation-level decisions that do allow increased e-bike use are too speculative or conjectural at this time to lend themselves to meaningful analysis. Any environmental effects associated with future decisions would be subject to the NEPA process on a case-by-case basis. The BLM has also determined, as a preliminary matter, that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. This proposed rule would not directly impact any allowed uses on public lands, only generally directs the BLM to consider allowing their use on existing trails and roads and in those areas where traditional bicycles are allowed. A Statement of Energy Effects is not required.

Clarity of This Regulation

We are required by Executive Orders 12866 (section 1 (b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use common, everyday words and clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you believe that we have not met these requirements, send us comments by one of the methods listed in the

ADDRESSES section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Author

The principal author(s) of this rule are Evan Glenn and David Jeppesen, Recreation and Visitor Services Division; Rebecca Moore, Branch of Decision Support; Scott Whitesides, Branch of Planning and NEPA; Britta Nelson, National Conservation Lands Division; Charles Yudson, Division of Regulatory Affairs; assisted by the Office of the Solicitor, Ryan Sklar.

Casey Hammond,

Acting Assistant Secretary, Land and Minerals Management.

List of Subjects in 43 CFR Part 8340

Public lands, Recreation and recreation areas, Traffic regulations.

43 CFR Chapter II

For the reasons set out in the preamble, the Bureau of Land Management proposes to amend 43 CFR part 8340 as follows:

PART 8340—OFF-ROAD VEHICLES

■ 1. The authority citation for part 8340 continues to read as follows:

Authority: 43 U.S.C. 1201, 43 U.S.C. 315a, 16 U.S.C. 1531 *et seq.,* 16 U.S.C. 1281c, 16 U.S.C. 670 *et seq.,* 16 U.S.C. 460l–6a, 16 U.S.C. 1241 *et seq.,* and 43 U.S.C. 1701 *et seq.*

Subpart 8340—General

■ 2. Revise § 8340.0–5 to read as follows:

§ 8340.0–5 Definitions.

As used in this part:

(a) *Off-road vehicle* means any motorized vehicle capable of, or designed for, travel on or immediately over land, water, or other natural terrain, excluding:

(1) Any nonamphibious registered motorboat;

(2) Any military, fire, emergency, or law enforcement vehicle while being used for emergency purposes;

(3) Any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved;

(4) Vehicles in official use;

(5) E-bikes, as defined in paragraph (j) of this section:

(i) While being used on roads and trails upon which mechanized, non-motorized use is allowed;

(ii) That are not being used in a manner where the motor is being used exclusively to propel the E-bike; and

(iii) Where the authorized officer has expressly determined, as part of a land-use planning or implementation-level decision, that E-bikes should be treated the same as non-motorized bicycles; and

(6) Any combat or combat support vehicle when used in times of national defense emergencies.

(b) *Public lands* means any lands the surface of which is administered by the Bureau of Land Management.

(c) *Bureau* means the Bureau of Land Management.

(d) *Official use* means use by an employee, agent, or designated representative of the Federal Government or one of its contractors, in the course of his employment, agency, or representation.

(e) *Planning system* means the approach provided in Bureau regulations, directives and manuals to formulate multiple use plans for the public lands. This approach provides for public participation within the system.

(f) *Open area* means an area where all types of vehicle use is permitted at all times, anywhere in the area subject to the operating regulations and vehicle standards set forth in subparts 8341 and 8342 of this title.

(g) *Limited area* means an area restricted at certain times, in certain areas, and/or to certain vehicular use. These restrictions may be of any type, but can generally be accommodated within the following type of categories: Numbers of vehicles; types of vehicles; time or season of vehicle use; permitted or licensed use only; use on existing roads and trails; use on designated roads and trails; and other restrictions.

(h) *Closed area* means an area where off-road vehicle use is prohibited. Use of off-road vehicles in closed areas may be allowed for certain reasons; however, such use shall be made only with the approval of the authorized officer.

(i) *Spark arrester* is any device which traps or destroys 80 percent or more of the exhaust particles to which it is subjected.

(j) *Electric bicycle* (also known as an E-bike) means a two- or three-wheeled cycle with fully operable pedals and an electric motor of not more than 750 watts (1 h.p.) that meets the requirements of one of the following three classes:

(1) Class 1 electric bicycle shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

(2) Class 2 electric bicycle shall mean an electric bicycle equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

(3) Class 3 electric bicycle shall mean an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

Subpart 8342—Designation of Areas and Trails

■ 3. Amend § 8342.2 by adding paragraph (d) to read as follows:

§ 8342.2 Designation procedures.

* * * * *

(d) *E-bikes.* (1) Authorized officers should generally allow, as part of a land-use planning or implementation-level decision, E-bikes whose motorized features are being used to assist human propulsion on roads and trails upon which mechanized, non-motorized use is allowed, unless the authorized officer determines that E-bike use would be inappropriate on such roads or trails; and

(2) If the authorized officer allows E-bikes in accordance with this paragraph (d), an E-bike user shall be afforded all the rights and privileges, and be subject to all of the duties, of user of a non-motorized bicycle.

[FR Doc. 2020–07099 Filed 4–9–20; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Part 1548

[Docket No. TSA–2020–0001]

Air Cargo Security Options To Mitigate Costs of Compliance With International Security Requirements

AGENCY: Transportation Security Administration, DHS.

ACTION: Request for information (RFI).

SUMMARY: The Transportation Security Administration (TSA) requests information from the public, specifically the air cargo industry (including manufacturers, shippers, suppliers, warehouses, e-commerce fulfillment centers, third-party logistics providers,

and air carriers) relating to compliance with international security standards for the transport of air cargo by commercial aircraft operators. Effective June 30, 2021, international standards require that all international air cargo carried by commercial aircraft operators (passenger and all-cargo) be either screened or be received from another TSA-regulated entity that has applied security controls and/or screened the cargo. TSA is seeking information regarding options to reduce the burden on U.S. and foreign all-cargo aircraft operators in complying with the international standard, such as security controls implemented throughout the supply chain that provide a level of security commensurate with the screening of cargo before transport. Because TSA does not expect these standards to require changes to current procedures for cargo transported on passenger aircraft, this RFI is focused only on all-cargo operations.

DATES: Submit comments by July 9, 2020.

ADDRESSES: You may submit comments, identified by the TSA docket number to this rulemaking, to the Federal Docket Management System (FDMS), a government-wide, electronic docket management system. To avoid duplication, please use only one of the following methods:

- *Electronic Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. The Department of Transportation (DOT), which maintains and processes TSA's official regulatory dockets, will scan the submission and post it to FDMS.
- *Hand Delivery/Courier:* At the same location as the mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 1–800–647–5527.
- *Fax:* (202) 493–2251.

See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for format and other information about comment submissions.

FOR FURTHER INFORMATION CONTACT: John Beckius, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6028 telephone (571) 227–5411; email *john.beckius@tsa.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Public Participation

TSA invites interested persons to participate in this action by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from any security program relating to this request. See the **ADDRESSES** section above for information on where to submit comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

With each comment, please identify the docket number at the beginning of your comment, reference a specific portion of the requested information, explain the reason for any recommended change, and include supporting data. 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.

You may submit comments and material electronically, in person, by mail, or fax as provided under the **ADDRESSES** section, but please submit your comments and material by only one means. If you submit comments by mail or delivery, submit them in an unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing. If you would like TSA to acknowledge receipt of comments submitted by mail, include with your comments a self-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

TSA will file all comments to our docket address, as well as items sent to the address or email under the **FOR FURTHER INFORMATION CONTACT** section, in the public docket, except for comments containing confidential information and sensitive security information (SSI).[1] Should you wish your personally identifiable information redacted prior to filing in the docket, please so state. TSA will consider all comments that are in the docket on or before the closing date for comments and will consider comments filed late to the extent practicable. The docket is available for public inspection before and after the comment closing date.

Handling of Confidential or Proprietary Information and Sensitive Security Information (SSI) Submitted in Public Comments

Do not submit comments that include trade secrets, confidential commercial or financial information, or SSI to the public regulatory docket. Please submit such comments separately from other comments on the action. Comments containing this type of information should be appropriately marked as containing such information and submitted by mail to the address listed in the **FOR FURTHER INFORMATION CONTACT** section.

TSA will not place comments containing SSI in the public docket and will handle them in accordance with applicable safeguards and restrictions on access. TSA will hold documents containing SSI, confidential business information, or trade secrets in a separate file to which the public does not have access, and place a note in the public docket explaining that commenters have submitted such documents. TSA may include a redacted version of the comment in the public docket. If an individual submits a request to examine or copy information that is not in the public docket, TSA will treat it as any other request under the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the Department of Homeland Security's (DHS) FOIA regulation found in 6 CFR part 5.

Privacy Act

Please be aware that anyone is able to search the electronic form of all comments in any of our dockets by the name of the individual who submitted the comment (or signed the comment, if an association, business, labor union, etc., submitted the comment). You may review the applicable Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477) and modified on January 17, 2008 (73 FR 3316).

Reviewing Docket Comments and Documents

You may review TSA's electronic public docket material on the internet at *http://www.regulations.gov.* In addition, DOT's Docket Management Facility provides a physical facility, staff, equipment, and assistance to the public. To obtain assistance or to review items in TSA's public docket, you may visit this facility between 9:00 a.m. and 5:00 p.m., Monday through Friday, excluding Federal holidays, or call 1–800–647–5527. This docket operations facility is

[1] ''Sensitive Security Information'' or ''SSI'' is information obtained or developed in the conduct of security activities, the disclosure of which would constitute an unwarranted invasion of privacy, reveal trade secrets or privileged or confidential information, or be detrimental to the security of transportation. The protection of SSI is governed by 49 CFR part 1520.

located in the West Building Ground Floor, Room W12–140 at 1200 New Jersey Avenue SE, Washington, DC 20590.

Availability of Document

You can get an electronic copy of published documents through the internet by—

(1) Searching the electronic Federal Docket Management System (FDMS) web page at *http://www.regulations.gov;* or

(2) Accessing the Government Publishing Office's web page at *http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR* to view the daily published **Federal Register** edition; or accessing the ''Search the **Federal Register** by Citation'' in the ''Related Resources'' column on the left, if you need to do a Simple or Advanced search for information, such as a type of document that crosses multiple agencies or dates.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this action.

I. Background

A. International Civil Aviation Organization (ICAO) Security Standards

The Convention on International Civil Aviation, also known as the Chicago Convention, established the International Civil Aviation Organization (ICAO), a specialized agency of the United Nations Economic and Social Council (ECOSOC), charged with coordinating international air travel. ICAO's core mandate is to help member states achieve consensus on international civil aviation regulations, standards, procedures, and practices. Under the terms of the Chicago Convention, member states collaborate to implement and comply with ICAO security standards and recommended practices, and must send official notice to ICAO whenever their domestic regulatory framework differs from an established ICAO standard. Since its establishment, ICAO has issued more than 12,000 international standards and recommended practices (SARPs).

Annex 17 of the Chicago Convention provides standards and SARPs concerned with the security of international air transport and is regularly amended to address evolving threats. Chapter 4.6 of Annex 17 (ICAO 4.6) includes security standards related to cargo and mail for safeguarding international civil aviation, especially to identify and/or detect the presence of concealed explosive devices or prevent the introduction of concealed explosive devices.

In March 2013, ICAO revised the air cargo security standard in ICAO 4.6 to remove the distinction between cargo transported on passenger aircraft and cargo transported on all-cargo aircraft, *i.e.,* the same security controls must be applied regardless of the commercial aircraft used for international transport of cargo.[2] On September 1, 2016, the ICAO Secretariat notified ICAO member states that they should phase out elements of their air cargo security frameworks that are inconsistent with the ICAO framework in the revised ICAO 4.6 [3] no later than June 30, 2021.

The ICAO Secretariat identified three options for Chicago Convention member states to meet the requirements of revised ICAO 4.6 applicable to the international shipment of cargo:

1. Subject all cargo to 100 percent screening before loading on a commercial aircraft.

2. Establish a Known Consignor program, for entities that originate cargo and have procedures that meet common security rules and standards sufficient to allow the carriage of cargo or mail on any aircraft.

3. Establish an alternative framework recognizing an entity other than a Regulated Agent (agent, freight forwarder or other entity conducting business with an operator) or Known Consignor that applies security controls to cargo or mail sufficient to allow its carriage on any commercial aircraft.[4]

In sum, member states must ensure that all international air cargo transported on commercial aircraft is either (1) screened to a level intended to identify and/or detect the presence of concealed explosive devices or (2) under appropriate security controls throughout the cargo supply chain to prevent the introduction of concealed explosive devices.

B. United States Compliance With ICAO 4.6

As previously noted, member states of the Chicago Convention must either ensure that all international air cargo is (1) screened to a level intended to identify and/or detect the presence of concealed explosive devices which may be used to commit an act of unlawful interference before being transported in an aircraft or (2) subject to appropriate security controls throughout the cargo supply chain to prevent the introduction of concealed explosive devices (*i.e.,* a *secure* supply chain). Under 49 U.S.C. 114(f)(10), TSA is also required to ensure the adequacy of security measures for the transportation of cargo.

U.S. requirements consistent with ICAO 4.6 already are in place for cargo transported by aircraft operators and foreign air carriers engaged in commercial passenger transportation,[5] because U.S. law already requires 100 percent of cargo loaded aboard commercial passenger aircraft to be screened.[6] To provide additional means of compliance with the requirements for cargo transported on passenger aircraft, TSA developed the Certified Cargo Screening Program (CCSP), *see* 49 CFR part 1549, and also approves technologies that can be used to screen cargo.

Through this notice, TSA is seeking options to similarly mitigate the burden of applying additional security requirements consistent with ICAO 4.6 as applied to all-cargo aircraft. ICAO suggests that one solution to increase supply chain security capacity is for member states to recognize ''other entities'' who demonstrate a system of government approved security controls

[2] The following provide the pertinent revised security standards in the revised ICAO 4.6 include:

•*Standard 4.6.1:* Each Contracting State shall ensure that appropriate security controls, including screening where practicable, are applied to cargo and mail, prior to their being loaded onto an aircraft engaged in commercial air transport operations.

•*Standard 4.6.2:* Each Contracting State shall establish a supply chain process, which includes the approval of regulated agents and/or known consignors, if such entities are involved in implementing screening or other security controls of cargo and mail.

•*Standard 4.6.5:* Each Contracting State shall ensure that operators do not accept cargo or mail for carriage on an aircraft engaged in commercial air transport operations unless the application of screening or other security controls is confirmed and accounted for by a regulated agent, or an entity that is approved by an appropriate authority. Cargo and mail which cannot be confirmed and accounted for by a regulated agent or an entity that is approved by an appropriate authority shall be subjected to screening.

[3] The ICAO air cargo security framework recognize six ''pillars'' of supply chain security: Facility security, personnel security, training, screening, chain of custody, and oversight and compliance.

[4] For example, manufacturers, shippers, etc., that implement sufficient security controls to allow transport of cargo on any commercial aircraft.

[5] TSA's regulations require certain commercial aircraft operators and foreign carriers to operate under a TSA approved or accepted security program. TSA provides standard, or pre-approved programs, that covered aircraft operators and foreign air carriers may adopt to expedite the review process and reduce the burden for regulated parties. There are separate security programs that reflect differences among the industry, *e.g.,* passenger or cargo and U.S. or foreign-based. TSA also has standard programs for operations that support the aviation industry, such as Indirect Air Carriers and Certified Cargo Screening Facilities. TSA's current security programs for cargo transported on passenger aircraft include measures that meet the Chicago Convention's standards.

[6] 49 U.S.C. 44901(g).

sufficient to prevent the introduction of concealed explosives into the air cargo supply chain.[7] Under the ICAO framework, such a government-approved entity may introduce cargo into the secured supply chain without screening if the entity has implemented appropriate security controls at all times while the cargo is in its custody.

TSA is considering whether the option of relying on other security controls, consistent with the ICAO framework and providing a commensurate level of security, could be applied to entities not currently regulated by TSA in order to meet TSA and ICAO security standards. Such a program could enable manufacturers, warehouse operators, or other shipping or logistics services providers to be recognized by TSA as having a system of security controls that are sufficient to allow them to introduce cargo into the secure supply chain for all-cargo aircraft, without a need for screening.[8]

This regulatory framework would align conceptually with TSA's Certified Cargo Screening Standard Security Program (CCSSSP), under which certain types of shippers operate.[9] By complying with the security controls required of a shipper Certified Cargo Screening Facility (shipper CCSF) under the CCSSSP, cargo may be transported on passenger aircraft without the type of screening generally required for cargo on passenger aircraft because the security controls applied by the shipper CCSF have been determined by the TSA Administrator to provide a commensurate level of security with the standards established in 49 U.S.C. 44901.

II. Request for Information

A. General

Information provided in response to this notice will be used to inform the possible development of a new regulation, order, or security program to allow the transport of air cargo on all-cargo aircraft without additional screening based on the TSA-recognized security controls implemented by other entities, such as manufacturers and shippers. To support this effort, TSA is specifically seeking public comment relating to the operational concerns, costs, and benefits of such a program, if it were to be implemented. TSA will use the results of this RFI, in part, to determine whether such program would be of value to U.S. businesses and taxpayers.

TSA's existing regulatory structure permits TSA to impose a 100 percent screening requirement for all-cargo aircraft through revision of TSA's standard security programs.[10] TSA acknowledges that a 100 percent screening requirement will increase the cost of transporting air cargo and therefore seeks to identify less costly alternatives. Any alternatives to 100 percent screening would need to be consistent with the ICAO framework and provide a level of security commensurate with TSA's screening requirements in terms of their effectiveness in identifying and preventing threats to transportation security.

Before developing such an option, TSA seeks comments on the broad areas outlined within this RFI and the approaches TSA can take to integrate existing requirements to meet the ICAO security standards in a manner that maximizes security benefits without imposing excessive, unjustified, or unnecessary costs.

Commenters are asked to provide as much information or data on the potential costs to meet the revised air cargo security standards in ICAO 4.6. In some areas, very specific information is requested. Whenever possible, please provide citations and copies of any relevant studies or reports on which you rely, as well as any additional data which supports your comment. Explaining the basis and reasoning underlying your comment will also increase the relevancy of the information as TSA determines what, if any, options are feasible to industry, government, and the public to meet the revised ICAO standards. While specific cost information or data is preferable, general information may also be helpful.

While complete answers are preferable, TSA recognizes that providing detailed comments on every question could be burdensome. TSA also does not expect that every commenter will be able to answer every question. Any information is appreciated and will be considered, regardless of whether it is a complete response.

TSA encourages responses from all interested entities, not just the air transportation sectors to which any new regulation, order, or security program would apply. TSA also requests that each comment filed by a party or their representatives, explain their interest in this request, or the association/industry they represent, and how their comments may assist TSA.

B. Specific Requests

Please refer to the number of the specific question(s) when responding.

1. Please comment on the existing combinations of security procedures in place in the warehousing, shipping, and other ground-based portions of the air cargo shipping industry, given the ICAO framework of physical security, personnel security, chain of custody, employee training, and oversight and compliance described above.

2. Please comment on any existing security procedures, for example, quality controls, theft prevention measures, or employee training programs in place in the warehousing, shipping, and other ground-based portions of the air cargo shipping industry that could be adapted to meet any of the areas of the ICAO security control framework in a cost effective manner. Please also explain how these procedures could be adapted, and how TSA could assess and approve them.

3. Please also comment on any additional security procedures, investments, or other actions that would be required for your business to establish a system of security controls that would meet the ICAO security control framework described above. Of those additional procedures, please comment on which procedures would be most expensive and least expensive to implement and maintain, and please explain why.

4. Please comment on whether warehouses, e-commerce fulfillment centers, third-party logistics providers, or other owners or operators of facilities that process cargo for air transport have an economic incentive to seek TSA recognition of their security controls, rather than pay the costs associated with 100 percent screening of their air cargo shipments by another party.

5. Assuming that TSA develops an air cargo regulatory program for manufacturers, warehouses, third-party logistics providers, or others consistent with the ICAO security framework described above, please comment on how the program could reduce costs, and how much the costs could be reduced.

6. Assuming that TSA develops a regulatory or program framework for the secure warehousing, processing, packing, and tendering for shipment of air cargo consistent with the ICAO standard described above, please comment on the economic data, metrics, calculations, or procedures that TSA

[7] *See supra* n. 2.

[8] This option would not be available to passenger aircraft. Cargo tendered for transport on passenger aircraft would still be subject to screening before loading in order to meet the screening requirement in 49 U.S.C. 44901 and TSA's implementing regulations and programs.

[9] Generally referred to as ''shipper CCSFs,'' these shippers operate as Certified Cargo Screening Facilities pursuant to 49 CFR part 1549.

[10] *See* 49 CFR 1544.205 and 1546.205.

should consider when evaluating the costs and benefits of such a framework. Please also identify any relevant publicly available datasets or other information that may inform TSA's decisions.

7. Assuming that TSA implements a new regulatory or standard security program consistent with the ICAO standard described above, please comment on the likely operational implications of such a program for your business practices, including but not limited to any future audits, control standards, account databases, or training requirements that may be required. Please also comment on any potential solutions TSA should consider.

8. Please comment on any new technologies in use or under development that may be relevant to the future secure transport of air cargo, and how those technologies could be used to establish an air cargo security framework consistent with the ICAO standards for security controls described above.

9. Please comment on whether an industry day or other industry specific forum focused on the ICAO standard described above could be useful, and please comment on any specific agenda that should be addressed.

Dated: March 30, 2020.

David P. Pekoske,

Administrator.

[FR Doc. 2020–06929 Filed 4–9–20; 8:45 am]

BILLING CODE 9110–05–P

Notices

Federal Register
Vol. 85, No. 70
Friday, April 10, 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

U.S. Codex Office

Codex Alimentarius Commission: Meeting of the Codex Committee on Processed Fruits and Vegetables

AGENCY: U.S. Codex Office, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The U.S. Codex Office is sponsoring a public meeting on May 5, 2020. The objective of the public meeting is to provide information and receive public comments on agenda items and corresponding United States (U.S.) positions discussed at the 29th Session of the Codex Committee on Processed Fruits and Vegetables (CCPFV29), which is working by correspondence in preparation for U.S. participation in the Codex Alimentarius Commission. The U.S. Manager for Codex Alimentarius and the Under Secretary, Office of Trade and Foreign Agricultural Affairs, recognize the importance of providing interested parties the opportunity to obtain background information on the 29th Session of the CCPFV and to address items on the agenda.

DATES: The public meeting is scheduled for May 5, 2020 from 2:00 p.m. to 3:30 p.m. EST.

ADDRESSES: If you wish to participate in the public meeting for the 40th Session of the CCPFV, the meeting will be conducted by conference call only to be consistent with public health guidance related to outbreaks of novel coronavirus (COVID19). Documents related to the 29th Session of the CCPFV will be accessible via the internet at the following address: *http://www.codexalimentarius.org/meetings-reports/en.* Dorian LaFond, U.S. Delegate to the 29th Session of the CCPFV, invites U.S. interested parties to submit their comments electronically to the following email address: *Doreen.chenmoulec@usda.gov*.

Call In Number: Please use the call-in-number: 1–888–844–9904 and participant code: 512 6092. Please register in advance by emailing *Doreen.chenmoulec@usda.gov.*

Registration: Attendees may register to participate in the public meeting as described above.

For further information about the session of CCPFV, contact Dorian LaFond, Agricultural Marketing Service, Fruits and Vegetables Division, Mail Stop 0235, Room 2086, South Agriculture Building, 1400 Independence Avenue SW, Washington, DC 20250–0235, Telephone: (202) 690–4944, Fax: (202) 720–0016, Email: *Dorian.Lafond@usda.gov* and *Doreen.chenmoulec@usda.gov*.

FOR FURTHER INFORMATION CONTACT: U.S. Codex Office, 1400 Independence Avenue SW, Room 4867, South Building, Washington, DC 20250. Phone: (202) 205–7760, Fax: (202) 720–3157, Email: *uscodex@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade.

The CCPFV is responsible for elaborating worldwide standards and related texts for all types of processed fruits and vegetables including, but not limited to, canned, dried, and frozen products, as well as fruit and vegetable juices and nectars.

The Committee is hosted by the United States.

Issues To Be Discussed at the Public Meeting

The following items from the Agenda for the 29th Session of the CCPFV will be discussed during the public meeting:

- Matters Referred to the Committee by the Codex Alimentarius Commission and Codex Committees
- Conversion of the Regional Standard for Gochujang to a Worldwide Standard
- Conversion of the Regional Standard for Chili Sauce to a Worldwide Standard
- Proposed revision to the Standard for Mango Chutney
- Proposed draft General Standard for Dried Fruits
- Proposed draft General Standard for Canned Fruit Salads
- Matters referred from the Codex Committee on Food Additives (49th and 50th Sessions)
- Matters referred from (Codex Committee on Methods and Analysis and Sampling 38th Session)
- Other Business
- Future work and work method of CCPFV

Each issue listed will be fully described in documents distributed, or to be distributed by the Secretariat before the Committee meeting. Members of the public may access or request copies of these documents (see **ADDRESSES**).

Public Meeting

At the May 5th, 2020, public meeting, U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to Dorian LaFond and the U.S. Codex office.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, the U.S. Codex Office will announce this **Federal Register** publication on-line through the USDA Codex web page located at: *http://www.usda.gov/codex,* a link that also offers an email subscription service providing access to information related to Codex. Customers can add or delete their subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

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How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative. Send your completed complaint form or letter to USDA by mail, fax, or email.

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442, Email: *program.intake@usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington, DC, on April 6, 2020.

Mary Lowe,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2020–07538 Filed 4–9–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Broadband Pilot (ReConnect) Program

AGENCY: Rural Utilities Service, USDA.

ACTION: Notification.

SUMMARY: On December 12, 2019, the Rural Utilities Service (RUS), a Rural Development agency of the United States Department of Agriculture, hereinafter referred to as the Agency, published a Funding Opportunity Announcement (FOA) and solicitation of applications for the Broadband Pilot (ReConnect) Program in the **Federal Register**. On March 31, 2020, the Agency published a Notice in the **Federal Register** to extend the application window to April 15, 2020. This notice supplements the prior notice of March 31, 2020, and informs the public that the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) provides an additional $100 million for ReConnect grants to prevent, prepare for, and respond to coronavirus.

DATES: This policy is effective April 10, 2020.

FOR FURTHER INFORMATION CONTACT: Laurel Leverrier, Acting Assistant Administrator Telecommunications Program, Rural Utilities Service, U.S. Department of Agriculture (USDA), email: *laurel.leverrier@wdc.usda.gov,* telephone (202) 720–9554. For general inquiries regarding the ReConnect Program Staff at *https://www.usda.gov/reconnect/contact-us.*

SUPPLEMENTARY INFORMATION:

Background

The Rural Utilities Service (RUS) published a Funding Opportunity Announcement (FOA) and solicitation of applications in the **Federal Register** on Thursday, December 12, 2019 (84 FR 67913), announcing its general policy and application procedures for funding under the broadband pilot program (ReConnect Program) established pursuant to the Consolidated Appropriations Act, 2018 (which became law on February 15, 2019). The ReConnect Program provides loans, grants, and loan/grant combinations to facilitate broadband deployment in rural areas. On Monday, March 30, 2020, the Agency published a notice in the **Federal Register** amending the FOA for the second round of the ReConnect Program to inform the public of an extension of the application window until April 15, 2020 (85 FR 17530).

Purpose of This Notice

On March 27, 2020, President Trump signed into law the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Section 11004 of the CARES Act provides an additional $100,000,000 for grants under the ReConnect Program to prevent, prepare for, and respond to the coronavirus. The additional funding remains available until September 30, 2021. The Agency will establish a set-aside for the $100 million for priority processing for applicants that submitted a 100% grant application during the first round of funding. For the application to be eligible for priority processing, the round one application must have been unsuccessful due to there being limited access to broadband in the proposed service area. Applicants are required to reapply during the second round of funding, which closes on April 15, 2020. The application must be for the same service area proposed by the applicant in the first round of funding to receive the prioritization, and the application must meet all other eligibility requirements. Applications already submitted during the second round of funding that meet these requirements will receive the priority consideration. The CARES Act also requires that at least 90 percent of the households to be served by a project receiving a grant shall be in a rural area without sufficient access to broadband. The CARES Act defines a rural area without sufficient access to broadband as 10 Mbps downstream and 1 Mbps upstream. This definition will be reevaluated and redefined, as necessary, on an annual basis by the Secretary of Agriculture. In accordance with the CARES Act, an entity to which a grant is made under the ReConnect Program shall not use a grant to overbuild or duplicate broadband expansion efforts made by any entity that has received a broadband loan from the Agency.

Chad Rupe,

Administrator, Rural Utilities Service.

[FR Doc. 2020–07741 Filed 4–8–20; 4:15 pm]

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DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission for OMB Review; Comment Request; State and Local Government Finance and Public Employment and Payroll Forms

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

Agency: U.S. Census Bureau.

Title: State and Local Government Finance and Public Employment and Payroll Forms.

OMB Control Number: 0607–0585.

Form Number(s): E–1, E–2, E–3, E–4, E–5, E–6, E–7, E–8, E–9, E–10, F–5, F–11, F–12, F–13, F–28, F–29, F–32.

Type of Request: Revision of a currently approved collection.

Number of Respondents: 73,508.

Average Hours per Response: 1.69 hours.

Burden Hours: 123,999.

Needs and Uses: The Census of Governments—Finance and its related Annual Surveys of State and Local Government Finances are comprised of the Annual Survey of State Government Finances, Annual Survey of Local Government Finances, Annual Survey of State Tax Collections and Annual Survey of Public Pensions. These surveys collect data on state government finances; estimates of local government revenue, expenditure, debt, and assets; and pension systems nationally and within state areas. The Census of Governments—Employment and

Annual Survey of Public Employment and Payroll collect state and local government data on full-time and part-time employment, and payroll statistics by governmental function. The Census Bureau implements these programs through a full census every five years (years ending in '2' and '7'), every five years since 1957, and the annual sample of state and local governments in the intervening years, with a new sample selected every five years (years ending in '4' and '9'). Content on the census and annual surveys is the same, the only difference is the number of governmental units selected. This clearance and all future clearances will combine all Census of Governments programs and their related Annual programs, which were previously submitted separately.

The Census Bureau is requesting approval to conduct the 2020 and 2021 Annual Surveys of State and Local Government Finances, Annual Survey of Public Employment and Payroll and the 2022 Census of Governments—Finance and Employment. These programs are the only comprehensive source of state and local government finance, employment, and payroll data collected on a nationwide scale using uniform definitions, concepts, and procedures. Data are collected for all agencies, departments, and school districts, institutions of the fifty state and approximate 90,000 local governments (counties, municipalities, townships, and special districts) during the census years, and for a sample of the local governments (approximately 11,000) for the survey years.

An additional 13,000 units of school districts for local government finance are covered in a separate request.

The programs covered by this request have moved towards eliminating collection by paper form as much as, and when possible. Throughout this submission, the word ''form'' refers to the digital version of the form accessed by respondents using our online collection instrument rather than a paper form. The only exception to this is the F–13 form, which is sent via email with a fillable PDF because the small number (50) of respondents did not justify the cost of converting it to an electronic form. Below is a short description of the forms utilized for data collection. Each form is tailored to the unique characteristics of the type and size of government or government agency to be surveyed. The E series of forms are used in the Public Employment and Payroll collection and the F series of forms are used in the State and Local Government Finance collection:

E–1 State Agencies—State agencies, excluding state colleges and universities.

E–2 State Institutions of Higher Education—State institutions of higher education colleges and universities.

E–3 Special Districts and Local Agencies—Dependent agencies of local governments and single function special district governments.

E–4 Municipalities, Counties, Townships—County governments, municipalities, and township governments with a population of 1,000 or more.

E–5 Municipalities and Townships—Shortened version of the E–4 form for municipalities and townships with a population of <1,000.

E–6 School Systems—Local government operated institutions of education, elementary & secondary education and/or college & other postsecondary education.

E–7 Major Special Districts and Agencies—Multifunction dependent agencies and fire protection agencies for local governments, and multifunction special district governments.

E–8 Elementary and Secondary Education—Local government operated institutions of elementary and secondary education.

E–9 Police Protection Agencies—State and local government police protection agencies.

E–10 College and Other Postsecondary Education—Local government operated institutions of higher education.

F–5 State governments provide detailed data on their tax collections using a spreadsheet that they receive via email and that includes the OMB approval number, authority and confidentiality statements, and burden estimate.

F–11, F–12 State and local government pension systems provide data via electronic collection instrument on their receipts, payments, assets, membership, and beneficiaries.

F–13 State agencies provide data not included in the audits, electronic files and other primary sources the Census Bureau uses to compile state government financial data via a fillable PDF that they receive via email that includes the OMB approval number, authority and confidentiality statements. Form F–13 is used to collect data from state insurance trust systems.

F–28 Counties, cities, and townships provide data via electronic collection instrument on revenues, expenditures, debt, and assets.

F–29 Multi-function special district governments provide data via electronic collection instrument on revenues, expenditures, debt, and assets.

F–32 Single-function special district governments and dependent agencies of local governments provide data via electronic collection instrument on revenues, expenditures, debt and assets.

In addition to the above collection methods, the Census Bureau also collects electronic data files through arrangements with state governments, central collection arrangements with local governments, and using customized electronic reporting instruments.

The Census of Governments-Finance and its related Annual Surveys of State and Local Government Finances, provide data on state government finances and estimates of local government revenue, expenditure, debt, assets, and pension systems nationally and within state areas. The Census of Governments- Employment and Annual Survey of Public Employment and Payroll provide data on state and local government employment and payroll in the United States. Census Bureau staff apply a standard set of criteria while classifying government activity in order to provide a complete and uniform set of data on the finance and employment activities of governments in the United States.

These data are widely used by Federal, state, and local legislators, policy makers, analysts, economists, and researchers to follow the changing characteristics of the government sector of the economy. The data are also widely used by the media and academia.

Statistics compiled from data gathered using these forms are used in several important Federal government programs. Economists at the Bureau of Economic Analysis (BEA) use these statistics for developing the National Income and Product Accounts. According to the Chief Economist of BEA, BEA uses the information from these surveys to prepare the national income and product accounts (NIPA), regional accounts, and industry accounts. The data obtained from these forms are critical to BEA for maintaining reliable estimates. Specifically, BEA uses national, state, local, and type-of-government aggregate data by function for full-time and part-time employees, and payroll to prepare estimates of functional payrolls for the public sector of the gross domestic product (GDP) as well as to derive state-level estimates of the employment and wages and salaries of students and their spouses who are employed by public institutions of higher education in which the students are enrolled. There is no other national

or state source for information on student workers at state institutions of higher education. The Federal Reserve Board use these finance data for constructing the Flow of Funds Accounts.

Additionally, the state and local government finance data are also needed as inputs into the Criminal Justice Expenditure and Employment Extract Series (CJEE), produced by the Bureau of Justice Statistics, and the National Health Expenditure Accounts produced by the Centers for Medicare and Medicaid Services. The data are also published annually in the Digest of Education Statistics produced by National Center for Education Statistics, the Economic Report of the President produced by the Council of Economic Advisors, and the source data are used as input into the State and Local Governments Fiscal Outlook published by the Government Accountability Office. In addition, the data are used by the National Science Foundation as inputs into the State government R&D expenditures.

Public interest groups of many types produce analyses of public sector activities using these data in addition to user organizations representing state and local government include the Council of State Governments, the National Conference of State Legislatures, Government Research Association, U.S. Conference of Mayors, National Association of Counties, National League of Cities, and the National Association of Towns and Townships. Other data users such as the National School Boards Association and the National Sheriffs Association also use these data for more specific analyses of government activities.

State and local government financial information has continued to garner significant media attention and policy coverage as they provide insight into the complex nature and fiscal health of state and local government finances.

Affected Public: State & local governments.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, Section 161, of the United States Code requires the Secretary of Commerce to conduct a census of governments every fifth year. Section 182 allows the Secretary of Commerce to conduct annual surveys in other years.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be 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 0607–0585.

Sheleen Dumas,

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

[FR Doc. 2020–07590 Filed 4–9–20; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting; Revised—Time Change

The Sensors and Instrumentation Technical Advisory Committee (SITAC) will meet on April 28, 2020, at 11:30 a.m., Eastern Daylight Time. The meeting is open to the public via teleconference. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

Agenda

Open Session

1. Welcome and Introductions.
2. Remarks from the Bureau of Industry and Security Management.
3. Industry Presentations.
4. New Business.

Closed Session

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than April 21, 2020.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that the materials be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on October 10, 2019 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d), that the portion of this meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information contact Yvette Springer on (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2020–07563 Filed 4–9–20; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey From the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2018–2019

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

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty (AD) order on honey from the People's Republic of China (China) for the period of review (POR) December 1, 2018 through November 30, 2019.

DATES: Applicable April 10, 2020.

FOR FURTHER INFORMATION CONTACT: Jasun Moy, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8194.

SUPPLEMENTARY INFORMATION:

Background

On December 6, 2019, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the AD order on honey from China.[1] On February 6,

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity*

2020, pursuant to a request from interested parties, Commerce initiated an administrative review with respect to ten companies, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b).[2] On March 30, 2020, the petitioners [3] timely withdrew their request for an administrative review with respect to all of the companies for which a review had been requested.[4] No other party requested an administrative review of these companies.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication date of the notice of initiation. The petitioners timely withdrew their review request, in whole, within 90 days of the publication date of the *Initiation Notice.* No other party requested an administrative review of the order for this POR. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of honey from China. Antidumping duties shall be assessed at rates equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as the only reminder to importers whose entries will be liquidated as a result of this rescission notice, of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751 and 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: April 6, 2020.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2020–07603 Filed 4–9–20; 8:45 am]

BILLING CODE 3510–DS–P

to Request Administrative Review, 84 FR 66880 (December 6, 2019).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 6896 (February 6, 2020) (*Initiation Notice*).

[3] Collectively, the petitioners are the American Honey Producers Association and Sioux Honey Association.

[4] *See* Petitioners' Letter, ''Honey from the People's Republic of China—Petitioners' Withdrawal of Request for Administrative Review; 2018–2019,'' dated March 30, 2020.

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Amendments to the Security Mission for Economic Prosperity in El Salvador, Guatemala, and Honduras

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce, International Trade Administration, is amending the Notice published in the **Federal Register** regarding the Security Mission for Economic Prosperity in El Salvador, Guatemala, and Honduras, scheduled from May 17–22, 2020, to amend the regional conference title, dates, and deadline for submitting applications for the event.

SUPPLEMENTARY INFORMATION:

Amendments to Revise the Regional Conference Title, Dates, and Deadline for Submitting Applications originally published at 85 FR 12259 (March 5, 2020).

Background

The International Trade Administration (ITA) is retitling its regional conference San Salvador, El Salvador to ''*Regional Security Strategies for Economic Prosperity*.'' The dates of ITA's planned Security Mission for Economic Prosperity to El Salvador, Guatemala, and Honduras have been modified from May 17–22, 2020, to October 25–30, 2020. The new deadline for applications has been extended to August 14, 2020 (and after that date if space remains and scheduling constraints permit). Interested U.S. companies and trade associations/organizations that have not already submitted an application are encouraged to do so. The proposed schedule is updated as follows:

Proposed Timetable

Sunday, October 25

Arrive in San Salvador, El Salvador

Ice breaker reception for companies and core team members

Monday, October 26

Regional SCO will kick off *Regional Security Strategies for Economic Prosperity* conference to which the mission participants will attend and learn about regional priorities, policy and regulatory changes, and projects throughout the region.

Reception in the evening at the Chief of Mission's residence for companies, government officials, and local private sector guests.

Tuesday, October 27

One-on-one business matchmaking appointments in El Salvador

Wednesday, October 28

Arrival in Guatemala or Honduras for matchmaking and other networking

Friday, October 30

End of Mission

The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis in accordance with the Notice published at 85 FR 12259 (March 5, 2020). The applicants selected will be notified as soon as possible.

Contact Information

April Redmon, U.S. Commercial Service, U.S. Department of Commerce Tel: 703–235–0103, Email: *April.redmon@trade.gov*.

Gemal Brangman,

Senior Advisor, Trade Missions, ITA Events Management Task Force.

[FR Doc. 2020–07544 Filed 4–9–20; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904; Binational Panel Reviews: Notice of Completion of Panel Review

AGENCY: United States Section, NAFTA Secretariat, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review in the matter of Certain Fabricated Structural Steel from Mexico: Final Affirmative Countervailing Duty Determination (Secretariat File Number: USA–MEX–2020–1904–03).

SUMMARY: The NAFTA Secretariat did not receive any timely complaints in advance of the filing deadline on April 1, 2020 in the above referenced dispute. In addition, the Government of Mexico submitted a withdrawal of request for panel review on March 31, 2020 in this matter. As a result, and pursuant to Rule 71(3) of the *NAFTA Rules of Procedure for Article 1904 Binational Panel Reviews (Rules),* the NAFTA dispute USA–MEX–2020–1904–03 has been terminated effective April 2, 2020.

FOR FURTHER INFORMATION CONTACT: Paul E. Morris, United States Secretary, NAFTA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of Article 1904 of NAFTA provides a dispute settlement mechanism involving trade remedy determinations issued by the government of the United States, the government of Canada, and the government of Mexico. There are established *Rules,* which were adopted by the three governments and require Notices of Completion of Panel Review to be published in accordance with Rule 78. For the complete *Rules,* please see *https://www.nafta-sec-alena.org/Home/Texts-of-the-Agreement/Rules-of-Procedure/Article-1904.*

Paul E. Morris,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 2020–07555 Filed 4–9–20; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–028]

Hydrofluorocarbon Blends From the People's Republic of China: Preliminary Scope Ruling on Gujarat Fluorochemicals Ltd.'s R–410A Blend; Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order for Indian Blends Containing Chinese Components

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that certain hydrofluorocarbon (HFC) blends, containing HFC components from India and the People's Republic of China (China), that are blended in India prior to importation into the United States, are circumventing the antidumping duty (AD) order on HFC blends from China. As a result, imports of HFC blends, containing HFC components from India and China, that are blended in India prior to importation into the United States, will be subject to suspension of liquidation effective June 18, 2019. We invite interested parties to comment on this preliminary determination.

DATES: Applicable April 10, 2020.

FOR FURTHER INFORMATION CONTACT: Jacob Garten or Benjamin Luberda, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3342 or (202) 482–2185, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 2019, Commerce initiated an anti-circumvention inquiry to determine whether certain HFC blends, containing HFC components from India and China, that are blended in India prior to importation into the United States,[1] are circumventing the AD order on HFC blends from China.[2] Additionally, in the *Notice of Initiation,* we stated that, as part of this anti-circumvention inquiry, we would also address the scope inquiry filed by Gujarat Fluorochemicals Ltd. (GFL).[3] As part of this preliminary determination, we also have made a preliminary scope finding. For a complete description of the events that followed the initiation of this inquiry, *see* the Preliminary Decision Memorandum.[4]

Scope of the Order

The products subject to the *Order* are HFC blends. HFC blends covered by the scope are R–404A, R–407A, R–407C, R–410A, and R–507A/R–507.[5] HFC blends covered by the scope of the *Order* are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 3824.78.0020 and 3824.78.0050. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Merchandise Subject to the Anti-Circumvention Inquiry

This anti-circumvention inquiry covers HFC blends R–404A, R–407A, R–407C, R–410A, and R–507A/R–507 produced in India using one or more HFC components of Chinese origin.[6]

Methodology

Commerce made this preliminary finding of circumvention in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(h). We relied on information placed on the record by the American HFC Coalition (the petitioners) and information placed on the record by GFL, Refex Industries Limited, and SRF Limited. Further, because Coolmate Refrigerant Pvt. Ltd. did not cooperate to the best of its ability in responding to Commerce's requests for information, we have based parts of our preliminary determination on the facts available, with adverse inferences, pursuant to sections 776(a) and (b) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file

[1] *See Hydrofluorocarbon Blends from the People's Republic of China: Initiation of Anti-Circumvention Inquiry of Antidumping Duty Order; Third-Country Blends Containing Chinese Components,* 84 FR 28269 (June 18, 2019) (*Notice of Initiation*).

[2] *See Hydrofluorocarbon Blends from the People's Republic of China: Antidumping Duty Order,* 81 FR 55436 (August 19, 2016) (*Order*).

[3] *See Notice of Initiation,* 84 FR at 28272.

[4] *See* Memorandum, ''Preliminary Decision Memorandum for Scope Ruling and Anti-Circumvention Inquiry of the Antidumping Duty Order on Hydrofluorocarbon Blends from the People's Republic of China: Indian Blends,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] For a complete description of the scope of the *Order, see* Preliminary Decision Memorandum.

[6] Based upon questionnaire responses provided by the Indian producer/exporters in this inquiry, we have preliminarily determined to cover all of the HFC blends listed under the scope or the *Order,* as we stated we may cover in the *Notice of Initiation,* 84 FR at 28270.

electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached at Appendix I to this notice.

Preliminary Scope Ruling and Affirmative Preliminary Determination of Circumvention

As detailed in the Preliminary Decision Memorandum, we preliminarily determine, pursuant to 19 CFR 351.225(k), that because the scope only covers HFC blends manufactured in China, and HFC blends manufactured in third countries are not covered, that R–410A manufactured from Chinese and Indian HFC components is not covered by the plain language of the scope of the *Order* within the meaning of 19 CFR 351.225(k). Accordingly, because R–410A manufactured from Chinese and Indian HFC components is neither included in the *Order* nor specifically excluded from the *Order,* a circumvention analysis and determination is warranted for R–410A blends under 19 CFR 351.225(h).

Further, as detailed in the Preliminary Decision Memorandum, we have examined HFC blends R–404A, R–407A, R–407C, R–410A, and R–507A/R–507 produced and/or exported from India which consist of Chinese and non-Chinese HFC components and we preliminarily determine, pursuant to section 781(b) of the Act, that imports of such HFC blends, composed of Chinese HFC components and non-Chinese HFC components, blended in India prior to importation into the United States, are circumventing the *Order.*

Suspension of Liquidation

In accordance with section 19 CFR 351.225(l)(2), Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of HFC blends R–404A, R–407A, R–407C, R–410A, and R–507A/R–507 produced (*i.e.,* assembled or completed) using one or more Chinese-origin HFC components in India (as defined in the Merchandise Subject to the Anti-Circumvention Inquiry section above) that are entered, or withdrawn from warehouse, for consumption on or after June 18, 2019, the date of initiation of this anti-circumvention inquiry.[7] CBP shall require cash deposits in accordance with the rate established for the China-wide entity, *i.e.,* 216.37 percent,[8] for entries of such merchandise produced in India. The suspension of liquidation instructions will remain in effect until further notice.

HFC blends produced in India entirely from HFC components that are not of Chinese origin are not subject to this inquiry. Therefore, cash deposits are not required for such merchandise. However, HFC blends R–404A, R–407A, R–407C, R–410A, and R–507A/R–507 produced in India, in whole or in part, from R–32, R–125, R–134a, and/or R–143a from China are subject to the AD order on HFC blends from China. If an importer imports HFC blends R–404A, R–407A, R–407C, R–410A, or R–507A/R–507 from India and claims that the HFC blend was produced from non-Chinese HFC components, in order not to be subject to cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in Appendix II. As explained in Appendix II, entries of shipments made within one year after the exporter and/or producer (as relevant) purchases Chinese blends or components are not eligible for the certification process. Exporters of HFC blends produced in India from non-Chinese-origin HFC components must prepare and maintain an Exporter Certification and documentation supporting the Exporter Certification (*see* Appendix IV). In addition, importers of such HFC components must prepare and maintain an Importer Certification (*see* Appendix III) as well as documentation supporting the Importer Certification. In addition to the Importer Certification, the importer must also maintain a copy of the Exporter Certification (*see* Appendix IV) and relevant supporting documentation from its exporter of HFC blends produced from non-Chinese-origin HFC components.

Public Comment

Interested parties may submit case briefs to Commerce no later than 14 days after the date of publication of this notice.[9] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the time limit for filing case briefs.[10] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[11] Case and rebuttal briefs should be filed electronically via ACCESS.[12] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until May 19, 2020, unless extended.[13]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically and received successfully in its entirety via ACCESS by 5:00 p.m. Eastern Time within 14 days after the date of publication of this notice.[14] Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the date and time for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.[15]

Postponement of Final Determination

Section 781(f) of the Act provides that, to the maximum extent practicable, Commerce shall make its anticircumvention determinations within 300 days from the date of initiation of the inquiry. We determine that it is not practicable to make a final determination in this anti-circumvention inquiry by the current deadline of April 13, 2020, because Commerce will require additional time to notify the U.S. International Trade Commission (ITC), and to review and analyze case and rebuttal briefs. Therefore, we are extending the time period for issuing the final determination in this inquiry by 100 days, to July 22, 2020.

Notification to the ITC

Consistent with section 781(e) of the Act, Commerce is notifying the ITC of this affirmative preliminary determination to include the merchandise subject to this inquiry within the AD order on HFC blends

[7] *See Notice of Initiation.*

[8] *See Order* at 81 FR 55438.

[9] Commerce is exercising its discretion, under 19 CFR 351.309(c)(1)(ii), to alter the time limit for filing of case briefs.

[10] Commerce is exercising its discretion, under 19 CFR 351.309(d)(1), to alter the time limit for filing of rebuttal briefs.

[11] *See* 19 CFR 351.309(c)(2) and (d)(2).

[12] *See* 19 CFR 351.303.

[13] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020).

[14] *See* 19 CFR 351.310(c).

[15] *Id.*

from China. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the subject merchandise. These consultations must be concluded within 15 days after the date of the request. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days to provide written advice to Commerce.

Notification to Interested Parties

This notice is published in accordance with section 781(b) of the Act and 19 CFR 351.225(h).

Dated: April 3, 2020.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

Appendix II

Certification Requirements

If an importer imports HFC blends (*i.e.,* R–404A, R–407A, R–407C, R–410A, and R–507A/R–507) from India and claims that the HFC blends were not produced from Chinese components (*i.e.,* Chinese origin R–32, R–125, R–134a, and/or R–143a), the importer is required to complete and maintain the importer certification attached hereto as Appendix III and all supporting documentation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

The exporter is required to complete and maintain the exporter certification, attached as Appendix IV, and is further required to provide the importer a copy of that certification and all supporting documentation. As explained below, shipments made within one year of purchase of Chinese blends or components are not eligible for the certification process.

For shipments and/or entries on or after June 18, 2019, through April 30, 2020, for which certifications are required, importers and exporters should complete the required certification, as soon as practicable but not later than 30 days after the publication of this notice in the **Federal Register**. Accordingly, where appropriate, the relevant bullet in the certification should be edited to reflect that the certification was completed within the time frame specified above. For example, the bullet in the importer certification that reads: ''This certification was completed at or prior to the time of Entry,'' could be edited as follows: ''The imports referenced herein entered before May 1, 2020. This certification was completed on mm/dd/yyyy, within 30 days of the **Federal Register** notice publication of the preliminary determination of circumvention.'' Similarly, the bullet in the exporter certification that reads, ''This certification was completed at or prior to the time of shipment,'' could be edited as follows: ''The shipments/products referenced herein shipped before May 1, 2020. This certification was completed on mm/dd/yyyy, within 30 days of the **Federal Register** notice publication of the preliminary determination of circumvention.'' For such entries/shipments, importers and exporters each have the option to complete a blanket certification covering multiple entries/shipments, individual certifications for each entry/shipment, or a combination thereof.

For shipments and/or entries on or after May 1, 2020, for which certifications are required, importers should complete the required certification at or prior to the date of entry and exporters should complete the required certification and provide it to the importer at or prior to the date of shipment.

The importer and Indian exporter are also required to maintain sufficient documentation supporting their certifications. The importer will not be required to submit the certifications or supporting documentation to U.S. Customs and Border Protection (CBP) as part of the entry process at this time. However, the importer and the exporter will be required to present the certifications and supporting documentation, to Commerce and/or CBP, as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. The importer and exporter are required to maintain the certifications (the importer must retain both certifications) and supporting documentation for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries.

In the situation where no certification is provided for an entry, and the AD China HFC blends order potentially applies to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD rate established for the China-wide entity (216.37 percent). Further, due to the fungible nature of HFC components and HFC blends, their relatively long shelf-lives, and the manner in which HFC components and blends are handled and mixed, the U.S. importer and the Indian exporter must both certify that the Indian producer/exporter has not purchased Chinese-origin HFC components or Chinese-origin HFC blends during the 12 months prior to shipment in order to be eligible for entry of Indian-origin HFC blends (*i.e.,* R–404A, R–407A, R–407C, R–410A, and R–507A/R–507) without regard to dumping duties. Any purchases of Chinese-origin HFC components (*i.e.,* Chinese origin R–32, R–125, R–134a, and/or R–143a) or Chinese-origin HFC blends (*i.e.,* R–404A, R–407A, R–407C, R–410A, and/or R–507A/R–507), by the Indian exporter and/or producer (as relevant) during the 12 months prior to shipment will render the U.S. imports of the Indian blend subject to the Chinese order on HFC blends due to the possibility that the Indian blend may consist, in whole or in part, of Chinese-origin HFC components and/or Chinese HFC blends.

Appendix III

Importer Certification

I hereby certify that:

- My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS of IMPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the hydrofluorocarbon (HFC) blends (*i.e.,* R–404A, R–407A, R–407C, R–410A, and/or R–507A/R–507) produced in India that entered under the entry number(s) identified below, and which are covered by this certification. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of the product (*e.g.,* the name of the exporter) in its records.
- The HFC blends covered by this certification were exported by {NAME OF EXPORTING COMPANY}, located at {ADDRESS OF EXPORTING COMPANY}. *If the importer is acting on behalf of the first U.S. customer, complete this paragraph:*
- The HFC blends covered by this certification were imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.
- The HFC blends covered by this certification were shipped to {NAME OF PARTY TO WHOM MERCHANDISE WAS FIRST SHIPPED IN THE UNITED STATES}, located at {ADDRESS OF SHIPMENT}.
- I have personal knowledge of the facts regarding the production of the imported products covered by this certification. ''Personal knowledge'' includes facts obtained from another party, (*e.g.,* correspondence received by the importer (or exporter) from the producer regarding the source of the inputs used to produce the imported products);
- The HFC blends covered by this certification were produced by {NAME OF PRODUCING COMPANY}, located at

{ADDRESS OF PRODUCING COMPANY}; *for each additional company, repeat:* {NAME OF PRODUCING COMPANY}, located at {ADDRESS OF PRODUCING COMPANY}.

• The HFC blends covered by this certification do not contain HFC components (*i.e.,* R–32, R–125, R–134a, and/or R–143a) produced in the People's Republic of China (China);

• The Indian exporter (and producer, if two different companies) have not purchased Chinese HFC blends (*i.e.,* R–404A, R–407A, R–407C, R–410A, and/or R–507A/R–507) or Chinese HFC components (*i.e.,* R–32, R–125, R–134a, and/or R–143a) during the 12 months prior to shipment of the aforementioned HFC blend(s) to the United States;

• This certification applies to the following entries:

Producer	Entry summary No.	Entry summary line item No.	Invoice No.	Invoice line item No.
.....	.....	.....	.....	.....

• I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, chemical testing specifications, productions records, invoices, *etc.etc.*) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;

• I understand that {NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);

• I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to the production and/or export of the imported merchandise identified above), and any supporting records provided by the exporter to the importer, for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;

• I understand that {NAME OF IMPORTING COMPANY} is required to maintain, and upon request, provide a copy of the exporter's certification and any supporting records provided by the exporter to the importer, to CBP and/or Commerce;

• I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

• I understand that failure to maintain the required certifications, and/or failure to substantiate the claims made herein, and/or failure to allow CBP and/or Commerce to verify the claims made herein, may results in a *de facto* determination that all entries to which this certification applies are within the scope if the antidumping duty (AD) order on HFC blends from China. I understand that such a finding will result in:

○ Suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

○ The requirement that the importer post applicable AD cash deposits equal to the rates as determined by Commerce; and

○ The revocation of {NAME OF IMPORTING COMPANY}'s privilege to certify future imports of HFC blends from India as not manufactured using HFC blends and/or components from China.

• I understand that agents of the importer, such as brokers, are not permitted to make this certification;

• This certification was completed at or prior to the time of Entry; and

• I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature
NAME OF COMPANY OFFICIAL
TITLE
DATE

Appendix IV

Exporter Certification

I hereby certify that:

• My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF EXPORTING COMPANY}, located at {ADDRESS OF EXPORTING COMPANY};

• I have direct personal knowledge of the facts regarding the production and exportation of the hydrofluorocarbon (HFC) blends (*i.e.,* R–404A, R–407A, R–407C, R–410A, and/or R–507A/R–507) identified below. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have direct personal knowledge of the producer's identity and location.

• The HFC blends, and the individual components thereof, covered this certification were produced by {NAME OF PRODUCING COMPANY}, located at {ADDRESS OF PRODUCING COMPANY}; *for each additional company, repeat:* {NAME OF PRODUCING COMPANY}, located at {ADDRESS OF PRODUCING COMPANY}.

• The HFC blends produced in India do not contain HFC components (*i.e.,* R–32, R–125, R–134a, and/or R–143a) produced in the People's Republic of China (China);

• The Indian exporter (and producer, if two different companies) have not purchased Chinese HFC blends (*i.e.,* R–404A, R–407A, R–407C, R–410A, and/or R–507A/R–507) or Chinese HFC components (*i.e.,* R–32, R–125, R–134a, and/or R–143a) during the 12 months prior to shipment of the aforementioned HFC blend(s) to the United States;

• This certification applies to the following sales:

Producer	Invoice No.	Invoice line item No.

• The HFC blends covered by this certification were sold to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

• The HFC blends covered by this certification were shipped to {NAME OF PARTY TO WHOM MERCHANDISE WAS SHIPPED}, located at {ADDRESS OF SHIPMENT}.

• I understand that {NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, chemical testing specifications, productions records, invoices, *etc.*) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;

• I understand that {NAME OF EXPORTING COMPANY} must provide this Exporter Certification to the U.S. importer by the time of shipment;

• I understand that {NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);

• I understand that the claims made herein, and the substantiating documentation are subject to verification by CBP and/or Commerce;

• I understand that failure to maintain the required certifications, and/or failure to substantiate the claims made herein, and/or failure to allow CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are within the scope of the antidumping duty (AD) order on HFC blends from China. I understand that such finding will result in:

○ Suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

○ The requirement that the importer post applicable AD cash deposits equal to the rates as determined by Commerce; and

○ The revocation of {NAME OF EXPORTING COMPANY}'s privilege to

certify future exports of HFC blends from India as not manufactured using HFC blends and/or components from China.

- This certification was completed at or prior to the time of shipment; and
- I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature
NAME OF COMPANY OFFICIAL
TITLE
DATE

[FR Doc. 2020–07606 Filed 4–9–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–028]

Hydrofluorocarbon Blends From the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order for HFC Components; and Extension of Time Limit for Final Determination

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that imports of hydrofluorocarbon (HFC) components R–32 (difluoromethane), R–125 (pentafluoroethane), and R–143a (1,1,1-trifluoroethane) from the People's Republic of China (China) are circumventing the antidumping duty (AD) order on HFC blends from China. As a result, imports of R–32, R–125, and R–143a from China will be subject to suspension of liquidation effective June 18, 2019. We invite interested parties to comment on this preliminary determination.

DATES: Applicable April 10, 2020.

FOR FURTHER INFORMATION CONTACT: Benjamin Luberda or Jacob Garten, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2185 or (202) 482–3342, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 18, 2019, Commerce initiated an anti-circumvention inquiry to determine whether imports of certain HFC components (*i.e.,* R–32, R–125, and R–143a) from China, that are further processed into finished HFC blends in the United States,[1] are circumventing the *Order* on HFC blends from China.[2] For a complete description of the events that followed the initiation of this inquiry, *see* the Preliminary Decision Memorandum.[3]

Scope of the Order

The products subject to the *Order* are HFC blends. HFC blends covered by the scope are R–404A, R–407A, R–407C, R–410A, and R–507A/R–507.[4] HFC blends covered by the scope of the *Order* are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 3824.78.0020 and 3824.78.0050. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Merchandise Subject to the Anti-Circumvention Inquiry

This anti-circumvention inquiry covers imports of the HFC components R–32 (difluoromethane), R–125 (pentafluoroethane), and R–143a (1,1,1-trifluoroethane), from China that are further processed in the United States to create an HFC blend that would be subject to the *Order.*

Methodology

Commerce made this preliminary finding of circumvention in accordance with section 781(a) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.225(g). We relied on information placed on the record by the American HFC Coalition (the petitioners); by Arkema Inc., BMP USA Inc., IGas USA, Inc., and their affiliated importers, National Refrigerants, Inc. (collectively, U.S. importers and blenders); and by Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd., Zhejiang Sanmei Chemical Ind. Co., Ltd., and T.T. International Co., Ltd. (collectively, Chinese producers and/or exporters). Further, because Golden G Imports LLC and Taizhou Qingsong Refrigerant New Material Co., Ltd. did not cooperate to the best of their ability in responding to Commerce's requests for information, we have based parts of our preliminary determination on the facts available, with adverse inferences, pursuant to sections 776(a) and (b) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached at the Appendix to this notice.

Affirmative Preliminary Determination of Circumvention

As detailed in the Preliminary Decision Memorandum, we preliminarily determine, pursuant to section 781(a) of the Act, that imports of HFC components R–32, R–125, and R–143a from China, that are further processed in the United States into finished HFC blends subject to the *Order* are circumventing the *Order.*

Suspension of Liquidation

In accordance with 19 CFR 351.225(l)(2), Commerce will instruct CBP to suspend liquidation of all HFC components R–32, R–125, and R–143a (as defined in the Merchandise Subject to the Anti-Circumvention Inquiry section above) from China that are entered, or withdrawn from warehouse, for consumption on or after June 18, 2019, the date of initiation of this anti-circumvention inquiry.[5] CBP shall require cash deposits in accordance with those rates prevailing at the time of entry, depending upon the exporter in question, under the HFC blends *Order.* The suspension of liquidation instructions will remain in effect until further notice.

We received comments from multiple parties with respect to certification regimes to exclude certain imports of

[1] *See Hydrofluorocarbon Blends from the People's Republic of China: Initiation of Anti-Circumvention Inquiry of Antidumping Duty Order; Components,* 84 FR 28273 (June 18, 2019).

[2] *See Hydrofluorocarbon Blends from the People's Republic of China: Antidumping Duty Order,* 81 FR 55436 (October 16, 2017) (*Order*).

[3] *See* Memorandum, ''Preliminary Decision Memorandum for Anti-Circumvention Inquiry of the Antidumping Duty Order on Hydrofluorocarbon Blends from the People's Republic of China: HFC Components'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] For a complete description of the scope of the order, *see* Preliminary Decision Memorandum.

[5] *See, e.g., Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order,* 63 FR 18364, 18366 (April 15, 1998), unchanged in *Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 63 FR 54672, 54675–6 (October 13, 1998).

HFC components from the *Order*.[6] At this time, we have not included a certification requirement; however, we invite further comments on this issue, and based upon any such comments, we may consider such a certification requirement for the final determination.

Public Comment

Interested parties may submit case briefs to Commerce no later than 14 days after the date of publication of this notice.[7] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the time limit for filing case briefs.[8] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[9] Case and rebuttal briefs should be filed electronically via ACCESS.[10] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until May 19, 2020, unless extended.[11]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically and received successfully in its entirety, via ACCESS by 5:00 p.m. Eastern Time within 14 days after the date of publication of this notice.[12] Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the date and time for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.[13]

[6] *See, e.g.,* Hudson Technologies Company's Letter, ''Hydrofluorocarbon Blends from the People's Republic of China, Anti-Circumvention Inquiry—HFC Components (A–570–028): Hudson Technology Company's Pre-Preliminary Determination Comments,'' dated March 6, 2020.

[7] Commerce is exercising its discretion, under 19 CFR 351.309(c)(1)(ii), to alter the time limit for filing of case briefs.

[8] Commerce is exercising its discretion, under 19 CFR 351.309(d)(1), to alter the time limit for filing of rebuttal briefs.

[9] *See* 19 CFR 351.309(c)(2) and (d)(2).

[10] *See* 19 CFR 351.303.

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020).

[12] *See* 19 CFR 351.310(c).

[13] *Id.*

Postponement of Final Determination

Section 781(f) of the Act provides that, to the maximum extent practicable, Commerce shall make its anti-circumvention determinations within 300 days from the date of initiation of the inquiry. We determine that it is not practicable to make a final determination in this anti-circumvention inquiry by the current deadline of April 13, 2020, because Commerce will require additional time to notify the U.S. International Trade Commission (ITC), and to review and analyze case and rebuttal briefs. Therefore, we are extending the time period for issuing the final determination in this inquiry by 80 days, to July 2, 2020.

Notification to the ITC

Consistent with section 781(e) of the Act, Commerce is notifying the ITC of this affirmative preliminary determination to include the merchandise subject to this inquiry within the AD order on HFC blends from China. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the subject merchandise. These consultations must be concluded within 15 days after the date of the request. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days to provide written advice to Commerce.

Notification to Interested Parties

This notice is published in accordance with section 781(a) of the Act and 19 CFR 351.225(g).

Dated: April 3, 2020.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2020–07605 Filed 4–9–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Request for Duty-Free Entry of Scientific Instruments or Apparatus

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration.

Title: Request for Duty-Free Entry of Scientific Instruments or Apparatus.

OMB Control Number: 0625–0037.

Form Number(s): ITA–338P.

Type of Request: Regular submission.

Number of Respondents: 65.

Average Hours per Response: 2.

Burden Hours: 130.

Needs and Uses: The Departments of Commerce and Homeland Security (''DHS'') are required to determine whether non-profit institutions established for scientific or educational purposes are entitled to duty-free entry for scientific instruments that the institutions import under the Florence Agreement. Form ITA–338P enables: (1) DHS to determine whether the statutory eligibility requirements for the institution and the instrument are fulfilled, and (2) Commerce to make a comparison and finding as to the scientific equivalency of comparable instruments being manufactured in the United States. Without the collection of the information, DHS and Commerce would be unable to carry out the responsibilities assigned by law.

Affected Public: Federal, state or local government; not-for-profit institutions.

Frequency: Annul and periodic.

Respondent's Obligation: Required to obtain or retain a benefit, voluntary.

Legal Authority: 19 U.S.C. 1202; 15 CFR 301.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

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 0625–0037.

Sheleen Dumas,

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

[FR Doc. 2020–07592 Filed 4–9–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA113]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of video conference.

SUMMARY: The North Pacific Fishery Management Council (Council) Bering Sea Fishery Ecosystem Plan Local Knowledge, Traditional Knowledge, and Subsistence Taskforce will meet via video conference on April 27, 2020 through April 28, 2020.

DATES: The meeting will be held on Monday, April 27, 2020 through Tuesday, April 28, 2020, from 8:30 a.m. to 5 p.m. Alaska Standard Time.

ADDRESSES: The meeting will be videoconference. Join online *https://zoom.us/j/495093187.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via video conference are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Kate Haapala, Council staff; email: *kate.haapala@noaa.gov.* For technical support please contact Maria Davis, Council staff, email: *maria.davis@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Monday, April 27, 2020 to Tuesday, April 28, 2020

The agenda will include: (a) Introduction and review of the Council's February 2020 meeting; (b) progress towards meeting Taskforce objectives, including the identification of sources of LK, TK, and subsistence information; (c) discussion of the workplan; (d) discussion of the Norton Sound Red King Crab case study; and (e) other business.

You can attend the meeting online using a computer, tablet, or smart phone, entering the following link into any browser: *https://zoom.us/j/495093187,* or if you are working directly in the Zoom application, you may join the meeting using the ID: 495–093–187. Alternately, you can connect to the meeting by phone only, using one of the several telephone numbers posted at *meetings.npfmc.org/meeting/details/1403.*

The agenda is subject to change, and the latest version will be posted at *meetings.npfmc.org/meeting/details/1403* prior to the meeting, along with meeting materials.

Public Comment

Public comment letters will be accepted and should be submitted electronically to *meetings.npfmc.org/meeting/details/1403.*

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 903–3107 at least 7 working days prior to the meeting date.

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

Dated: April 6, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–07534 Filed 4–9–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA114]

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of a public meeting via webinar.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Citizen Science Operations Committee via webinar on May 5, 2020.

DATES: The Citizen Science Operations Committee meeting will be held via webinar on Tuesday, May 5, 2020, from 2 p.m. until 4 p.m.

ADDRESSES: *Meeting address:* The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julia Byrd (see **FOR FURTHER INFORMATION CONTACT** below) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar. There will be an opportunity for public comment at the beginning of the meeting.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julia Byrd, Citizen Science Program Manager, SAFMC; phone: (843) 302–8439 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *julia.byrd@safmc.net.*

SUPPLEMENTARY INFORMATION: The Citizen Science Operations Committee serves as advisors to the Council's Citizen Science Program. Committee members include representatives from the Council's Citizen Science Advisory Panel, NOAA Fisheries' Southeast Regional Office, NOAA Fisheries' Southeast Fisheries Science Center, and the Council's Science and Statistical Committee. Their responsibilities include developing programmatic recommendations, reviewing policies, providing program direction/multi-partner support, identifying citizen science research needs, and providing general advice.

Agenda items include:

1. Discussion of the Citizen Science Program evaluation, including Program objectives and strategies. The Committee will provide recommendations as appropriate;

2. Other Business.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: April 6, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–07535 Filed 4–9–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA115]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Atlantic Mackerel, Squid, and Butterfish (MSB) Committee will hold a meeting.

DATES: The meeting will be held on Wednesday April 29, 2020 at 9 a.m. and conclude by 6 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar with a telephone-only audio connection: *http://mafmc.adobeconnect.com/msbc2020illex/.* Telephone instructions are provided upon connecting, or the public can call direct: 800–832–0736, Rm: *7833942#.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their website at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255, or visit *www.mafmc.org.*

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to develop committee recommendations regarding an amendment to the MSB fishery management plan that could modify the plan's goals and objectives as well as the permitting system and associated management measures for *Illex* squid.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to any meeting date.

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

Dated: April 6, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–07536 Filed 4–9–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA106]

Marine Mammals; File No. 23078

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Marilyn Mazzoil, Dolphin Census Inc., 9611 U.S. Highway 1, #382, Sebastian, FL 32958, has applied in due form for a permit to conduct research on bottlenose dolphins (*Tursiops truncatus*).

DATES: Written, telefaxed, or email comments must be received on or before May 11, 2020.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 23078 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Shasta McClenahan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to study bottlenose dolphins in the inland waters, nearshore coastal waterways, and offshore waters of Southern Georgia and Florida's east coast. Up to 15,000 dolphins may be harassed annually during vessel surveys, unmanned aircraft flights, photo-identification, photogrammetry, and behavioral observations. Annually, 120 dolphins may be breath sampled using a pole and 156 dolphins may be biopsy sampled. The objectives of the research are to: (1) Understand stock structure and behavior, (2) estimate population trajectory, (3) evaluate health and nutrition, (4) increase knowledge of the role of an apex predator in ecological function and (5) identify and mitigate direct human threats. The permit would be valid for five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: April 3, 2020.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–07598 Filed 4–9–20; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes products and services to the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date deleted from the Procurement List:* May 10, 2020

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

On 3/6/2020, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and services deleted from the Procurement List.

End of Certification

Accordingly, the following products and services are deleted from the Procurement List:

Products

NSNs—Product Names:
8440–00–270–0537—(Clip Only)
8440–00–412–2314—(Clip Only)
8440–00–412–2342—(Clip Only)
8440–00–269–5311—(Webbing & Clip)
8440–00–577–4178—(Webbing & Clip)
8440–00–753–6365—(Webbing & Clip)
Mandatory Source of Supply: Travis Association for the Blind, Austin, TX
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA
NSN—Product Name:
7350–00–838–3919—Toothpicks
Mandatory Source of Supply: Volunteers of America, Dakotas, Sioux Falls, SD
Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI, FORT WORTH, TX

Services

Service Type: Repair/Maintenance of Manual Typewriters
Mandatory for: Federal Court House Building, Syracuse, NY
Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR
Service Type: Elevator Operation
Mandatory for: U.S. Federal Building: 35 Ryerson Street, Brooklyn, NY
Mandatory Source of Supply: Fedcap Rehabilitation Services, Inc., New York, NY
Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2020–07570 Filed 4–9–20; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete products and services to the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* May 10, 2020.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following products and services are proposed for deletion from the Procurement List:

Products

NSNs—Product Names:
6515–00–NIB–8121—Gloves, Surgical, Powder-free, Latex-Free, Sensicare LT Custom Fit with Aloe, White, Size 7″
6515–00–NIB–8122—Gloves, Surgical, Powder-free, Latex-Free, Sensicare LT Custom Fit with Aloe, White, Size 7.5″
6515–00–NIB–8123—Gloves, Surgical, Powder-free, Latex-Free, Sensicare LT Custom Fit with Aloe, White, Size 8″
6515–00–NIB–8124—Gloves, Surgical, Powder-free, Latex-Free, Sensicare LT Custom Fit with Aloe, White, Size 8.5″
6515–00–NIB–0508—Gloves, Surgical, Powder-free, Latex, Triumph Natural, White, Size 5.5″
6515–00–NIB–0509—Gloves, Surgical, Powder-free, Latex, Triumph Natural, White, Size 6″
6515–00–NIB–0510—Gloves, Surgical, Powder-free, Latex, Triumph Natural, White, Size 6.5″
6515–00–NIB–0511—Gloves, Surgical, Powder-free, Latex, Triumph Natural, White, Size 7″
6515–00–NIB–0512—Gloves, Surgical, Powder-free, Latex, Triumph Natural, White, Size 7.5″
6515–00–NIB–0513—Gloves, Surgical, Powder-free, Latex, Triumph Natural, White, Size 8″
6515–00–NIB–0514—Gloves, Surgical, Powder-free, Latex, Triumph Natural, White, Size 8.5″
6515–00–NIB–0515—Gloves, Surgical, Powder-free, Latex, Triumph Natural, White, Size 9″
6515–00–NIB–0516—Gloves, Surgical, Powder-free, Latex, Triumph Green with Aloe, Green, Size 5.5″
6515–00–NIB–0517—Gloves, Surgical, Powder-free, Latex, Triumph Green with Aloe, Green, Size 6″
6515–00–NIB–0518—Gloves, Surgical, Powder-free, Latex, Triumph Green with Aloe, Green, Size 6.5″
6515–00–NIB–0519—Gloves, Surgical, Powder-free, Latex, Triumph Green with Aloe, Green, Size 7″
6515–00–NIB–0520—Gloves, Surgical, Powder-free, Latex, Triumph Green with Aloe, Green, Size 7.5″
6515–00–NIB–0521—Gloves, Surgical, Powder-free, Latex, Triumph Green with Aloe, Green, Size 8″
6515–00–NIB–0522—Gloves, Surgical, Powder-free, Latex, Triumph Green with Aloe, Green, Size 8.5″
6515–00–NIB–0523—Gloves, Surgical, Powder-free, Latex, Triumph Green with Aloe, Green, Size 9″
6515–00–NIB–0524—Gloves, Surgical, Powder-free, Latex, Triumph Ortho with Aloe, Brown, Size 6″
6515–00–NIB–0525—Gloves, Surgical, Powder-free, Latex, Triumph Ortho with Aloe, Brown, Size 6.5″
6515–00–NIB–0526—Gloves, Surgical, Powder-free, Latex, Triumph Ortho with Aloe, Brown, Size 7″
6515–00–NIB–0527—Gloves, Surgical, Powder-free, Latex, Triumph Ortho with Aloe, Brown, Size 7.5″
6515–00–NIB–0528—Gloves, Surgical, Powder-free, Latex, Triumph Ortho with Aloe, Brown, Size 8″
6515–00–NIB–0529—Gloves, Surgical, Powder-free, Latex, Triumph Ortho with Aloe, Brown, Size 8.5″

6515–00–NIB–0530—Gloves, Surgical, Powder-free, Latex, Triumph Ortho with Aloe, Brown, Size 9″
6515–00–NIB–0749—Gloves, Surgical, Powder-free, Latex, Triumph LT, White, Size 5.5″
6515–00–NIB–0750—Gloves, Surgical, Powder-free, Latex, Triumph LT, White, Size 6″
6515–00–NIB–0751—Gloves, Surgical, Powder-free, Latex, Triumph LT, White, Size 6.5″
6515–00–NIB–0752—Gloves, Surgical, Powder-free, Latex, Triumph LT, White, Size 7″
6515–00–NIB–0753—Gloves, Surgical, Powder-free, Latex, Triumph LT, White, Size 7.5″
6515–00–NIB–0754—Gloves, Surgical, Powder-free, Latex, Triumph LT, White, Size 8″
6515–00–NIB–0755—Gloves, Surgical, Powder-free, Latex, Triumph LT, White, Size 8.5″
6515–00–NIB–0756—Gloves, Surgical, Powder-free, Latex, Triumph LT, White, Size 9″
6515–00–NIB–0757—Gloves, Surgical, Powder-free, Latex, Eudermic, Brown, Size 5.5″
6515–00–NIB–0758—Gloves, Surgical, Powder-free, Latex, Eudermic, Brown, Size 6″
6515–00–NIB–0759—Gloves, Surgical, Powder-free, Latex, Eudermic, Brown, Size 6.5″
6515–00–NIB–0760—Gloves, Surgical, Powder-free, Latex, Eudermic, Brown, Size 7″
6515–00–NIB–0761—Gloves, Surgical, Powder-free, Latex, Eudermic, Brown, Size 7.5″
6515–00–NIB–0762—Gloves, Surgical, Powder-free, Latex, Eudermic, Brown, Size 8″
6515–00–NIB–0763—Gloves, Surgical, Powder-free, Latex, Eudermic, Brown, Size 8.5″
6515–00–NIB–0764—Gloves, Surgical, Powder-free, Latex, Eudermic, Brown, Size 9″
6515–00–NIB–8108—Gloves, Surgical, Powder-free, Latex, Triumph Classic, White, Size 5.5″
6515–00–NIB–8109—Gloves, Surgical, Powder-free, Latex, Triumph Classic, White, Size 6″
6515–00–NIB–8110—Gloves, Surgical, Powder-free, Latex, Triumph Classic, White, Size 6.5″
6515–00–NIB–8111—Gloves, Surgical, Powder-free, Latex, Triumph Classic, White, Size 8.5″
6515–00–NIB–8112—Gloves, Surgical, Powder-free, Latex, Triumph Classic, White, Size 9″
6515–00–NIB–8149—Gloves, Surgical, Powder-free, Latex, Triumph Classic, White, Size 7″
6515–00–NIB–8150—Gloves, Surgical, Powder-free, Latex, Triumph Classic, White, Size 7.5″
6515–00–NIB–8151—Gloves, Surgical, Powder-free, Latex, Triumph Classic, White, Size 8″
6515–00–NIB–8152—Gloves, Surgical, Powder-free, Latex, Radion-X, Khaki, Size 6.5″
6515–00–NIB–8153—Gloves, Surgical, Powder-free, Latex, Radion-X, Khaki, Size 7″
6515–00–NIB–8154—Gloves, Surgical, Powder-free, Latex, Radion-X, Khaki, Size 7.5″
6515–00–NIB–8155—Gloves, Surgical, Powder-free, Latex, Radion-X, Khaki, Size 8″
6515–00–NIB–8156—Gloves, Surgical, Powder-free, Latex, Radion-X, Khaki, Size 8.5″
6515–00–NIB–8157—Gloves, Surgical, Powder-free, Latex, Radion-X, Khaki, Size 9″
Mandatory Source of Supply: BOSMA Enterprises, Indianapolis, IN
Contracting Activity: STRATEGIC ACQUISITION CENTER, FREDERICKSBURG, VA
NSNs—Product Names:
7510–01–600–7621—Wall Calendar, Dated 2019, Wire Bound w/Hanger, 12″ x 17″
Mandatory Source of Supply: Chicago Lighthouse Industries, Chicago, IL
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY
NSNs—Product Names:
8340–00–485–3012—Tarpaulin, Flyer's Emergency
Mandatory Source of Supply: L. E. Phillips Career Development Center, Inc., Eau Claire, WI
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA
NSNs—Product Names:
6230–00–NSH–0011—Flashlight, Magnet Type, Krypton Bulb
6230–01–465–7180—Flashlight, Krypton Bulb
Mandatory Source of Supply: Development Workshop, Inc., Idaho Falls, ID
Contracting Activity: STRATEGIC ACQUISITION CENTER, FREDERICKSBURG, VA

Services

Service Type: Custodial Services
Mandatory for: U.S. Geological Survey—Warehouse: Huffman Business Park, Building P, Anchorage, AK
Mandatory for: U.S. Geological Survey—Warehouse: 800 Ship Creek Avenue (USGS Storage Area), Anchorage, AK
Mandatory Source of Supply: Assets, Inc., Anchorage, AK
Contracting Activity: OFFICE OF POLICY, MANAGEMENT, AND BUDGET, NBC ACQUISITION SERVICES DIVISION

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2020–07568 Filed 4–9–20; 8:45 am]

BILLING CODE P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m. EDT, Tuesday, April 14, 2020.

PLACE: Conference call.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') will hold this meeting to consider the following matters:

- *Proposed Rule:* Amendments to Part 190 Bankruptcy Regulations;
- *Proposed Rule:* Amendments to Compliance Requirements for Commodity Pool Operators on Form CPO–PQR;
- *Proposed Rule:* Amendments to Part 50 Clearing Requirements for Central Banks, Sovereigns, IFIs, Bank Holding Companies, and CDFIs;
- *Final Rule:* Amendments to Part 23 Margin Requirements for the European Stability Mechanism;
- *Final Rule:* Amendments to Part 160 Consumer Financial Information Privacy Regulation; and
- Administration of Commission Rulemaking Comment Periods.

The agenda for this meeting will be available to the public and posted on the Commission's website at *https://www.cftc.gov.* Instructions for public access to the live audio feed of the meeting will also be posted on the Commission's website. In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting, will be posted on the Commission's website.

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, Secretary of the Commission, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: April 7, 2020.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2020–07671 Filed 4–8–20; 11:15 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 85 FR 19459, April 7, 2020.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 1:30 p.m. EDT, Tuesday, April 14, 2020.

CHANGES IN THE MEETING: The time of the meeting has changed. This meeting will now start at 2:00 p.m. EDT.

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: April 8, 2020.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2020–07755 Filed 4–8–20; 4:15 pm]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Board of Visitors for the Western Hemisphere Institute for Security Cooperation (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Board's charter is being renewed in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C., Appendix) and 41 CFR 102–3.50(a). The charter and contact information for the Board's Designated Federal Officer (DFO) are found at *https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation.*

The Board will provide the Secretary of Defense and the Deputy Secretary of Defense, through the Secretary of the Army, with independent advice and recommendations on matters pertaining to the operations and management of the Western Hemisphere Institute for Security Cooperation. The Board will be composed of 14 members, 6 of whom are designated by the Secretary of Defense including, to the extent practicable, persons from academia, religious, and human rights communities. The Secretary of Defense will also affirm the appointments, designated in statute, of the senior military officer responsible for training and doctrine in the U.S. Army (or designee) and the Commanders of the Combatant Commands with geographic responsibility for the Western Hemisphere (U.S. Northern Command and U.S. Southern Command) (or the designees of those officers). The Board will also be composed of: (a) Two Members of the Senate (the Chair and Ranking Member of the Armed Services Committee or a designee of either of them); (b) Two Members of the House of Representatives (the Chair and Ranking Member of the Armed Services Committee or a designee of either of them); and (c) One person designated by the Secretary of State.

Board members who are not full-time or permanent part-time Federal civilian officers, employees, or active duty members of the Armed Forces will be appointed as experts or consultants, pursuant to 5 U.S.C. 3109, to serve as special government employee members. Board members who are full-time or permanent part-time Federal civilian officers, employees, or active duty members of the Armed Forces will be appointed pursuant to 41 CFR 102–3.130(a), to serve as regular government employee members.

All members of the Board are appointed to provide advice on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official Board-related travel and per diem, members serve without compensation.

The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: April 7, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–07591 Filed 4–9–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Education Innovation and Research (EIR) Program—Mid-phase Grants

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2020 for the EIR program—Mid-phase Grants, Catalog of Federal Domestic Assistance (CFDA) number 84.411B (Mid-phase Grants). This notice relates to the approved information collection under OMB control number 1894–0006.

DATES:

Applications Available: April 13, 2020.

Deadline for Notice of Intent to Apply: April 30, 2020.

Deadline for Transmittal of Applications: June 15, 2020.

Deadline for Intergovernmental Review: August 14, 2020.

Pre-Application Information: The Department will post additional competition information for prospective applicants on the EIR program website: *https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/innovation-early-learning/education-innovation-and-research-eir.*

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: Ashley Brizzo, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E325, Washington, DC 20202–5900, Telephone: (202) 453–7122, Email: *eir@ed.gov.*

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

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The EIR program, established under section 4611 of the Elementary and Secondary Education Act, as amended (ESEA), provides funding to create, develop, implement, replicate, or take to scale entrepreneurial, evidence-based, field-initiated innovations to improve student achievement and attainment for high-need students; and rigorously evaluate such innovations. The EIR program is designed to generate and validate solutions to persistent education challenges and to support the expansion of those solutions to serve substantially larger numbers of students.

The central design element of the EIR program is its multi-tier structure that links the amount of funding an applicant may receive to the quality of the evidence supporting the efficacy of

the proposed project, with the expectation that projects that build this evidence will advance through EIR's grant tiers: ''Early-phase,'' ''Mid-phase,'' and ''Expansion.'' Applicants proposing innovative practices that are supported by limited evidence can receive relatively small grants to support the development, implementation, and initial evaluation of the practices; applicants proposing practices supported by evidence from rigorous evaluations, such as an experimental study (as defined in this notice), can receive larger grant awards to support expansion across the country. This structure provides incentives for applicants to: (1) Explore new ways of addressing persistent challenges that other educators can build on and learn from; (2) build evidence of effectiveness of their practices; and (3) replicate and scale successful practices in new schools, districts, and States while addressing the barriers to scale, such as cost structures and implementation fidelity.

All EIR projects are expected to generate information regarding their effectiveness in order to inform EIR grantees' efforts to learn about and improve upon their efforts, and to help similar, non-EIR efforts across the country benefit from EIR grantees' knowledge. By requiring that all grantees conduct independent evaluations of their EIR projects, EIR ensures that its funded projects make a significant contribution to improving the quality and quantity of information available to practitioners and policymakers about which practices improve student achievement and attainment, for which types of students, and in what contexts.

In prior years, the Department has awarded three types of grants under this program: ''Early-phase'' grants, ''Mid-phase'' grants, and ''Expansion'' grants. For FY 2020, the Department will award two types of grants: ''Early-phase'' grants and ''Mid-phase'' grants. These grants differ in terms of the level of prior evidence of effectiveness required for consideration for funding, the expectations regarding the kind of evidence and information funded projects should produce, the level of scale funded projects should reach, and, consequently, the amount of funding available to support each type of project.

The Department expects that Mid-phase grants will be used to fund implementation and a rigorous evaluation of a program that has been successfully implemented under an Early-phase grant or other effort meeting similar criteria, for the purpose of measuring the program's impact and cost-effectiveness, if possible using existing administrative data. Mid-phase grants are supported by evidence that demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes (as defined in this notice) based on moderate evidence (as defined in this notice) from at least one well-designed and well-implemented experimental study or quasi-experimental design study (as defined in this notice) for at least one population or setting, and grantees are encouraged to implement at the regional level (as defined in this notice) or at the national level (as defined in this notice). This notice invites applications for Mid-phase grants only. The notice inviting applications for Early-phase grants will be published in the **Federal Register** at a later date.

Background: While this notice is for the Mid-phase tier only, the premise of the EIR program is that new and innovative programs and practices can help to solve the persistent problems in education that prevent students, particularly high-need students, from succeeding. These innovations need to be evaluated, and if sufficient evidence of effectiveness can be demonstrated, the intent is for these innovations to be replicated and tested in new populations and settings. EIR is not intended to provide support for practices that are already commonly implemented by educators, unless significant adaptations of such practices warrant testing to determine if they can accelerate achievement, or greatly increase the efficiency and likelihood that they can be widely implemented in a variety of new populations and settings effectively.

As an EIR project is implemented, grantees are encouraged to learn more about how the practices improve student achievement and attainment; and to develop increasingly rigorous evidence of effectiveness and new strategies to efficiently and cost-effectively scale to new school districts, regions, and States. We encourage applicants to develop a logic model (as defined in this notice), theory of action, or another conceptual framework that includes the goals, objectives, outcomes, and key project components (as defined in this notice) of the project.

Disseminating evaluation findings is a critical element of every project, even if a rigorous evaluation does not demonstrate positive results. Such results can influence the next stage of education practice and promote follow-up studies that build upon the results. The EIR program considers all high-quality evaluations to be a valuable contribution to the field of education research and encourages the documentation and sharing of lessons learned.

For those innovations that have positive results and have the potential for continued development and implementation, the Department is interested in learning more about continued efforts regarding cost-effectiveness and feasibility when scaled to additional populations and settings. EIR projects at the Mid-phase level are encouraged to test new strategies for recruiting and supporting new project adoption, seek efficiencies where project implementation has been too costly or cumbersome to operate at scale, and test new ways of overcoming any other barriers in practice or policy that might inhibit project growth.

Finally, all EIR applicants and grantees should consider how they need to develop their organizational capacity, project financing, or business plans to sustain their projects and continue implementation and adaptation after Federal funding ends. EIR encourages all grantees to engage in sustainability planning as part of a funded project. The Department intends to provide grantees with technical assistance in their dissemination, scaling, and sustainability efforts.

Mid-phase projects are expected to refine and expand the use of practices with prior evidence of effectiveness in order to improve outcomes for high-need students. They are also expected to generate important information about an intervention's effectiveness, including for whom and in which contexts a practice is most effective, as well as cost-effective. Mid-phase projects are uniquely positioned to help answer critical questions about the process of scaling a practice to the regional or national levels across geographies. Mid-phase grantees are encouraged to consider how the cost structure of a practice can change as the intervention scales. Additionally, grantees may want to consider multiple ways to facilitate implementation fidelity without making scaling too onerous.

Mid-phase applicants are encouraged to design an evaluation that has the potential to meet the strong evidence (as defined in this notice) threshold. Mid-phase grantees should measure the cost-effectiveness of their practices using administrative or other readily available data. These types of efforts are critical to sustaining and scaling EIR-funded effective practices after the EIR grant period ends, assuming that the practice has positive effects on important student outcomes. In order to support adoption or replication by other entities, the evaluation of a Mid-phase project

should identify and codify the core elements of the EIR-supported practice that the project implements, and examine the effectiveness of the project for any new populations or settings that are included in the project. The Department intends to provide grantees and their independent evaluators with evaluation technical assistance. This evaluation technical assistance could include grantees and their independent evaluators providing to the Department or its contractor updated comprehensive evaluation plans in a format as requested by the technical assistance provider and using such tools as the Department may request. Grantees will be encouraged to update this evaluation plan at least annually to reflect any changes to the evaluation, with updates consistent with the scope and objectives of the approved application.

The FY 2020 Mid-phase competition includes three absolute priorities. All Mid-phase applicants must address Absolute Priority 1. Mid-phase applicants are also required to address one of the other two absolute priorities. The absolute priorities align with the purpose of the program and the Administration's priorities.

Absolute Priority 1—Moderate Evidence, establishes the evidence requirement for this tier of grants. All Mid-phase applicants must submit prior evidence of effectiveness that meets the moderate evidence standard.

Absolute Priority 2—Field-Initiated Innovations—Science, Technology, Engineering, or Math (STEM), is intended to highlight the Administration's efforts to ensure our Nation's economic competitiveness by improving and expanding STEM learning and engagement, including computer science (as defined in this notice).

In Absolute Priority 2, the Department recognizes the importance of funding Pre-Kindergarten (Pre-K) through grade 12 STEM education and anticipates that projects would expand opportunities for underrepresented students such as minorities, girls, and youth from low-income families to participate in activities that will help reduce achievement and attainment gaps in a manner consistent with nondiscrimination requirements contained in the U.S. Constitution and Federal civil rights laws. The Department also encourages expanding access to STEM education in rural areas, especially through partnerships with rural school districts to utilize virtual and remote access to makerspace technologies, such as 3–D printers, to expand opportunities for students in rural areas where such tools are often cost prohibitive.

Absolute Priority 3—Field-Initiated Innovations—Fostering Knowledge and Promoting the Development of Skills That Prepare Students To Be Informed, Thoughtful, and Productive Individuals and Citizens—is intended to advance innovation, build evidence, and address the learning and achievement of high-need students beginning in Pre-K through grade 12. The priority promotes skills that prepare students to be informed, thoughtful, and productive individuals and citizens and that are vital to maintaining a strong republic and to supporting the economic competitiveness of the United States. Through this priority, the Department responds to language in the explanatory statement for the FY 2020 Appropriations Act directing the Department to provide $65,000,000 in grants for social and emotional learning (SEL). The priority calls for projects that address various elements that have been identified as components of SEL in the research literature [1] and incorporates priority 4 from the Secretary's Final Supplemental Priorities and Definitions for Discretionary Grant Programs, published in the **Federal Register** on March 2, 2018 (83 FR 9096) (Supplemental Priorities).

Through these priorities, the Department intends to advance innovation, build evidence, and address the learning and achievement of high-need students beginning in Pre-K through grade 12.

Priorities: This notice includes three absolute priorities. In accordance with 34 CFR 75.105(b)(2)(ii), Absolute Priority 1 is from 34 CFR 75.226(d)(2). In accordance with 34 CFR 75.105(b)(2)(iv), Absolute Priorities 2 and 3 are from section 4611(a)(1)(A) of the ESEA and the Supplemental Priorities.

Under the Mid-phase grant competition, Absolute Priorities 2 and 3 constitute their own funding categories. The Secretary intends to award grants under each of these absolute priorities for which applications of sufficient quality are submitted. Because applications will be placed in rank order separately for Absolute Priorities 2 and 3, applicants must clearly identify the specific absolute priority that the proposed project addresses.

Absolute Priorities: For FY 2020 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet Absolute Priority 1—Moderate Evidence, and one additional absolute priority.

These priorities are:

Absolute Priority 1—Moderate Evidence.

Under this priority, we provide funding to projects supported by evidence that meets the conditions in the definition of ''moderate evidence.''

Note: An applicant must identify up to two study citations to be reviewed against the What Works Clearinghouse (WWC) Handbook (as defined in this notice) for the purposes of meeting the definition of ''moderate evidence.'' The studies may have been conducted by the applicant or by a third party. An applicant should clearly identify these citations in the Evidence form. The Department may not review a study citation that an applicant fails to clearly identify for review. In addition to including up to two study citations, applicants should describe in the form information such as the following: (1) The positive student outcomes they intend to replicate under their Mid-phase grant and how the characteristics of students and the positive student outcomes in the study citations correspond with the characteristics of the high-need students to be served under the Mid-phase grant; (2) the correspondence of practice(s) the applicant plans to implement with the practice(s) cited in the studies; and (3) the intended student outcomes that the proposed practice(s) attempts to impact.

An applicant must ensure that all citations are available to the Department from publicly available sources and

[1] The Aspen Institute (2017). ''National Commission on Social, Emotional, and Academic Development. Retrieved from: *https://www.aspeninstitute.org/programs/national-commission-on-social-emotional-and-academic-development/.*

Belfield, C., Bowden, B., Klapp, A., Levin, H., Shand, R., & Zander, S. (2015). ''The Economic Value of Social and Emotional learning.'' The Center for Benefit-Cost Studies in Education. Retrieved from: *http://www.casel.org/wp-content/uploads/2016/09/SEL-Revised.pdf.*

Domitrovich, C.E., Durlak, J., Staley, K.C., & Weissberg, R.P. (2017). ''Social-emotional Competence: An Essential Factor for Promoting Positive Adjustment and Reducing Risk in School Children.'' Child Development, 88, 408–416. doi:10.1111/cdev.12739.

Jones, S., Brush, K., Bailey, R., Brion-Meisels, G., McIntyre, J., Kahn, J., Nelson, B., & Stickle, L. (2017). ''Navigating Social and Emotional Learning from the Inside Out: Looking Inside and Across 25 Leading SEL programs: A Practical Resource for Schools and OST providers (elementary school focus).'' Wallace Foundation. Retrieved from: *https://www.wallacefoundation.org/knowledge-center/Documents/Navigating-Social-and-Emotional-Learning-from-the-Inside-Out.pdf.*

Osher, D., Kidron, Y., Brackett, M., Dymnicki, A., Jones, S., & Weissberg, R.P. (2016). ''Advancing the Science and Practice of Social and Emotional Learning: Looking Back and Moving Forward.'' Review of Research in Education, 40, 644–681. doi: 10.3102/0091732X16673595.

provide links or other guidance indicating where it is available. If the Department determines that an applicant has provided insufficient information, the applicant will not have an opportunity to provide additional information at a later time. However, if the WWC determines that a study does not provide enough information on key aspects of the study design, such as sample attrition or equivalence of intervention and comparison groups, the WWC may submit a query to the study author(s) to gather information for use in determining a study rating. Authors would be asked to respond to queries within 10 business days. Should the author query remain incomplete within 14 days of the initial contact to the study author(s), the study may be deemed ineligible under the grant competition. After the grant competition closes, the WWC will, for purposes of its own curation of studies, continue to include responses to author queries and will make updates to study reviews as necessary. However, no additional information will be taken into account after the competition closes and the initial timeline established for response to an author query passes.

Absolute Priority 2—Field-Initiated Innovations—Promoting Science, Technology, Engineering, or Math (STEM) Education, With a Particular Focus on Computer Science.

Under the priority, we provide funding to projects that are designed to—

(1) Create, develop, implement, replicate, or take to scale entrepreneurial, evidence-based, field-initiated innovations to improve student achievement and attainment for high-need students; and

(2) Improve student achievement or other educational outcomes in one or more of the following areas: science, technology, engineering, math, or computer science.

Absolute Priority 3—Field-Initiated Innovations—Fostering Knowledge and Promoting the Development of Skills That Prepare Students To Be Informed, Thoughtful, and Productive Individuals and Citizens.

Under the priority, we provide funding to projects that are designed to—

(1) Create, develop, implement, replicate, or take to scale entrepreneurial, evidence-based, field-initiated innovations to improve student achievement and attainment for high-need students; and

(2) Improve student academic performance and better prepare students for employment, responsible citizenship, and fulfilling lives, including by preparing children or students to do one or more of the following:

(a) Develop positive personal relationships with others.

(b) Develop determination, perseverance, and the ability to overcome obstacles.

(c) Develop self-esteem through perseverance and earned success.

(d) Develop problem-solving skills.

(e) Develop self-regulation in order to work toward long-term goals.

Definitions: The definitions of ''baseline,'' ''experimental study,'' ''logic model,'' ''moderate evidence,'' ''national level,'' ''nonprofit,'' ''performance measure,'' ''performance target,'' ''project component,'' ''quasi-experimental design study,'' ''regional level,'' ''relevant outcome,'' ''strong evidence,'' and ''What Works Clearinghouse Handbook (WWC Handbook)'' are from 34 CFR 77.1. The definition of ''computer science'' is from the Supplemental Priorities. The definitions of ''local educational agency'' and ''State educational agency'' are from section 8101 of the ESEA.

Baseline means the starting point from which performance is measured and targets are set.

Computer science means the study of computers and algorithmic processes and includes the study of computing principles and theories, computational thinking, computer hardware, software design, coding, analytics, and computer applications.

Computer science often includes computer programming or coding as a tool to create software, including applications, games, websites, and tools to manage or manipulate data; or development and management of computer hardware and the other electronics related to sharing, securing, and using digital information.

In addition to coding, the expanding field of computer science emphasizes computational thinking and interdisciplinary problem-solving to equip students with the skills and abilities necessary to apply computation in our digital world.

Computer science does not include using a computer for everyday activities, such as browsing the internet; use of tools like word processing, spreadsheets, or presentation software; or using computers in the study and exploration of unrelated subjects.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbook:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Local educational agency (LEA) means:

(a) In General. A public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(b) Administrative Control and Direction. The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(c) Bureau of Indian Education Schools. The term includes an elementary school or secondary school funded by the Bureau of Indian Education but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local

educational agency receiving assistance under the ESEA with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency (as defined in this notice) other than the Bureau of Indian Education.

(d) Educational Service Agencies. The term includes educational service agencies and consortia of those agencies.

(e) State Educational Agency. The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Moderate evidence means that there is evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 3.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

National level describes the level of scope or effectiveness of a process, product, strategy, or practice that is able to be effective in a wide variety of communities, including rural and urban areas, as well as with different groups (*e.g.,* economically disadvantaged, racial and ethnic groups, migrant populations, individuals with disabilities, English learners, and individuals of each gender).

Nonprofit, as applied to an agency, organization, or institution, means that it is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.

Performance measure means any quantitative indicator, statistic, or metric used to gauge program or project performance.

Performance target means a level of performance that an applicant would seek to meet during the course of a project or as a result of a project.

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbook.

Regional level describes the level of scope or effectiveness of a process, product, strategy, or practice that is able to serve a variety of communities within a State or multiple States, including rural and urban areas, as well as with different groups (*e.g.,* economically disadvantaged, racial and ethnic groups, migrant populations, individuals with disabilities, English learners, and individuals of each gender). For an LEA-based project, to be considered a regional-level project, a process, product, strategy, or practice must serve students in more than one LEA, unless the process, product, strategy, or practice is implemented in a State in which the State educational agency is the sole educational agency for all schools.

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

State educational agency (SEA) means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

Strong evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''strong evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 3.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1 or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same

project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

What Works Clearinghouse Handbook (WWC Handbook) means the standards and procedures set forth in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (incorporated by reference, see 34 CFR 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the Handbook documentation.

Note: The What Works Clearinghouse Procedures and Standards Handbook (Version 3.0), as well as the more recent What Works Clearinghouse Handbooks released in October 2017 (Version 4.0) and January 2020 (Version 4.1), are available at *https://ies.ed.gov/ncee/wwc/Handbooks.*

Program Authority: Section 4611 of the ESEA, 20 U.S.C. 7261.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The Supplemental Priorities.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $178,600,000.

These estimated available funds are the total available for both types of grants under the FY 2020 EIR program (Early-phase and Mid-phase grants). Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Average Size of Awards: Up to $8,000,000.

Maximum Award: We will not make an award exceeding $8,000,000 for a project period of 60 months.

Estimated Number of Awards: 16–20.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months. We anticipate that initial awards under this competition will be made for a three-year (36-month) period.

Contingent upon the availability of funds and each grantee's substantial progress towards accomplishing the goals and objectives of the project as described in its approved application, we may make continuation awards to grantees for the remainder of the project period.

Applicants must propose a budget that covers the entire project period of up to 60 months.

Note: Under section 4611(c) of the ESEA, the Department must use at least 25 percent of EIR funds for a fiscal year to make awards to applicants serving rural areas, contingent on receipt of a sufficient number of applications of sufficient quality. For purposes of this competition, we will consider an applicant as rural if the applicant meets the qualifications for rural applicants as described in the *Eligible Applicants* section and the applicant certifies that it meets those qualifications through the application.

In implementing this statutory provision and program requirement, the Department may fund high-quality applications from rural applicants and applications submitted under Absolute Priorities 2 and 3 out of rank order in the Mid-phase competition.

In addition, for FY 2020 Mid-phase competition, the Department intends to award an estimated $31 million in funds for STEM education projects (Absolute Priority 2) and $65 million in funds for SEL (Absolute Priority 3), contingent on receipt of a sufficient number of applications of sufficient quality.

III. Eligibility Information

1. *Eligible Applicants:*

(a) An LEA;

(b) An SEA;

(c) The Bureau of Indian Education (BIE);

(d) A consortium of SEAs or LEAs;

(e) A nonprofit organization; and

(f) An SEA, an LEA, a consortium described in (d), or the BIE, in partnership with—

(1) A nonprofit organization;

(2) A business;

(3) An educational service agency; or

(4) An IHE.

To qualify as a rural applicant under the EIR program, an applicant must meet both of the following requirements:

(a) The applicant is—

(1) An LEA with an urban-centric district locale code of 32, 33, 41, 42, or 43, as determined by the Secretary;

(2) A consortium of such LEAs;

(3) An educational service agency or a nonprofit organization in partnership with such an LEA; or

(4) A grantee described in clause (1) or (2) in partnership with an SEA; and

(b) A majority of the schools to be served by the program are designated with a locale code of 32, 33, 41, 42, or 43, or a combination of such codes, as determined by the Secretary.

Applicants are encouraged to retrieve locale codes from the National Center for Education Statistics School District search tool (*https://nces.ed.gov/ccd/districtsearch/*), where districts can be looked up individually to retrieve locale codes, and Public School search tool (*https://nces.ed.gov/ccd/schoolsearch/*), where individual schools can be looked up to retrieve locale codes. More information on rural applicant eligibility is in the application package.

If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code, (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual, (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant, or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate. In addition, any IHE is eligible to be a partner in an application where an LEA, SEA, BIE, consortium of SEAs or LEAs, or a nonprofit organization is the lead applicant that submits the application. A nonprofit organization, such as a development foundation, that is affiliated with a public IHE can apply for a grant. A public IHE that has 501(c)(3) status would also qualify as a nonprofit organization and could be a lead applicant for an EIR grant. A public IHE without 501(c)(3) status, or that could not provide any other documentation described in 34 CFR 75.51(b), however, would not qualify as a nonprofit organization, and therefore could not apply for and receive an EIR grant.

2. *Cost Sharing or Matching:* Under section 4611(d) of the ESEA, each grant recipient must provide, from Federal, State, local, or private sources, an amount equal to 10 percent of funds provided under the grant, which may be provided in cash or through in-kind contributions, to carry out activities supported by the grant. Grantees must include a budget showing their matching contributions to the budget amount of EIR grant funds and must provide evidence of their matching contributions for the first year of the grant in their grant applications. Section 4611(d) of the ESEA also authorizes the Secretary to waive this matching requirement on a case-by-case basis, upon a showing of exceptional circumstances, such as:

(a) The difficulty of raising matching funds for a program to serve a rural area;

(b) The difficulty of raising matching funds in areas with a concentration of LEAs or schools with a high percentage of students aged 5 through 17—

(1) Who are in poverty, as counted in the most recent census data approved by the Secretary;

(2) Who are eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 *et seq.*);

(3) Whose families receive assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*); or

(4) Who are eligible to receive medical assistance under the Medicaid program; and

(c) The difficulty of raising funds on Tribal land.

Applicants that wish to apply for a waiver must include a request in their application that describes why the matching requirement would cause serious hardship or an inability to carry out project activities. Further information about applying for waivers can be found in the application package. However, given the importance of matching funds to the long-term success of the project, the Secretary expects eligible entities to identify appropriate matching funds.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

4. *Other:* a. *Funding Categories:* An applicant will be considered for an award only for the type of EIR grant (*i.e.,* Early-phase, Mid-phase, and Expansion grant) for which it applies. An applicant may not submit an application for the same proposed project under more than one type of grant.

Note: Each application will be reviewed under the competition it was submitted under in the *Grants.gov* system, and only applications that are successfully submitted by the established deadline will be peer reviewed. Applicants should be careful that they download the intended EIR application package and that they submit their applications under the intended EIR competition.

b. *Evaluation:* The grantee must conduct an independent evaluation of the effectiveness of its project.

c. *High-need students:* The grantee must serve high-need students.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the Mid-phase competition, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative for a Mid-phase grant application to no more than 30 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

6. *Notice of Intent to Apply:* We will be able to develop a more efficient process for reviewing grant applications if we know the approximate number of applicants that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify us of the applicant's intent to submit an application by completing a web-based form. When completing this form, applicants will provide (1) the applicant organization's name and address and (2) which absolute priorities the applicant intends to address. Applicants may access this form online at *www.surveymonkey.com/r/Z8FPDWV.* Applicants that do not complete this form may still submit an application.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for the Mid-phase competition are from 34 CFR 75.210. The points assigned to each criterion are indicated in the parentheses next to the criterion. An applicant may earn up to a total of 100 points based on the selection criteria for the application.

A. *Significance (up to 10 points).*

The Secretary considers the significance of the proposed project. In

determining the significance of the proposed project, the Secretary considers the potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies.

B. *Quality of the Project Design (up to 25 points).*

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (10 points)

(2) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (5 points)

(3) The extent to which the proposed activities constitute a coherent, sustained program of research and development in the field, including, as appropriate, a substantial addition to an ongoing line of inquiry. (5 points)

(4) The extent to which the proposed project will increase efficiency in the use of time, staff, money, or other resources in order to improve results and increase productivity. (5 points)

C. *Strategy to Scale (up to 20 points).*

The Secretary considers the applicant's strategy to scale the proposed project. In determining the applicant's capacity to scale the proposed project, the Secretary considers the following factors:

(1) The extent to which the applicant identifies a specific strategy or strategies that address a particular barrier or barriers that prevented the applicant, in the past, from reaching the level of scale that is proposed in the application. (10 points)

(2) The mechanisms the applicant will use to broadly disseminate information on its project so as to support further development or replication. (10 points)

D. *Adequacy of Resources and Quality of the Management Plan (up to 25 points).*

The Secretary considers the adequacy of resources and the quality of the management plan for the proposed project. In determining the adequacy of resources and quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The applicant's capacity (*e.g.,* in terms of qualified personnel, financial resources, or management capacity) to bring the proposed project to scale on a national or regional level (as defined in 34 CFR 77.1(c)) working directly, or through partners, during the grant period. (10 points)

(2) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (5 points)

(3) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support. (5 points)

(4) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (5 points)

E. *Quality of the Project Evaluation (up to 20 points).*

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation will, if well implemented, produce evidence about the project's effectiveness that would meet the What Works Clearinghouse standards without reservations as described in the What Works Clearinghouse Handbook (as defined in this notice). (10 points)

(2) The extent to which the evaluation plan clearly articulates the key project components, mediators, and outcomes, as well as a measurable threshold for acceptable implementation. (5 points)

(3) The extent to which the methods of evaluation will provide valid and reliable performance data on relevant outcomes. (5 points)

Note: Applicants may wish to review the following technical assistance resources on evaluation: (1) WWC Procedures and Standards Handbooks: *https://ies.ed.gov/ncee/wwc/Handbooks;* (2) ''Technical Assistance Materials for Conducting Rigorous Impact Evaluations'': *http://ies.ed.gov/ncee/projects/evaluationTA.asp;* and (3) IES/NCEE Technical Methods papers: *http://ies.ed.gov/ncee/tech_methods/.* In addition, applicants may view an optional webinar recording that was hosted by the Institute of Education Sciences. The webinar focused on more rigorous evaluation designs, discussing strategies for designing and executing experimental studies that meet WWC evidence standards without reservations. This webinar is available at: *http://ies.ed.gov/ncee/wwc/Multimedia/18.*

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Before making awards, we will screen applications submitted in accordance with the requirements in this notice to determine whether applications have met eligibility and other requirements. This screening process may occur at various stages of the process; applicants that are determined to be ineligible will not receive a grant, regardless of peer reviewer scores or comments.

Peer reviewers will read, prepare a written evaluation of, and score the assigned applications, using the selection criteria provided in this notice.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)),

accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20(c).

Note: The evaluation report is a specific deliverable under a Mid-phase grant that grantees must make available to the public. Additionally, EIR grantees are encouraged to submit final studies resulting from research supported in whole or in part by EIR to the Educational Resources Information Center (*http://eric.ed.gov*).

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* The overall purpose of the EIR program is to expand the implementation of, and investment in, innovative practices that are demonstrated to have an impact on improving student achievement and attainment for high-need students. We have established several performance measures (as defined in this notice) for the Mid-phase grants.

Annual performance measures: (1) The percentage of grantees that reach their annual target number of students as specified in the application; (2) the percentage of grantees that reach their annual target number of high-need students as specified in the application; (3) the percentage of grantees with ongoing well-designed and independent evaluations that will provide evidence of their effectiveness at improving student outcomes in multiple contexts; (4) the percentage of grantees that implement an evaluation that provides information about the key practices and the approach of the project so as to facilitate replication; (5) the percentage of grantees that implement an evaluation that provides information on the cost-effectiveness of the key practices to identify potential obstacles and success factors to scaling; and (6) the cost per student served by the grant.

Cumulative performance measures: (1) The percentage of grantees that reach the targeted number of students specified in the application; (2) the percentage of grantees that reach the targeted number of high-need students specified in the application; (3) the percentage of grantees that implement a completed well-designed, well-implemented and independent evaluation that provides evidence of their effectiveness at improving student outcomes at scale; (4) the percentage of grantees with a completed well-designed, well-implemented, and independent evaluation that provides information about the key elements and the approach of the project so as to facilitate replication or testing in other settings; (5) the percentage of grantees with a completed evaluation that provided information on the cost-effectiveness of the key practices to identify potential obstacles and success factors to scaling; and (6) the cost per student served by the grant.

Project-Specific Performance Measures: Applicants must propose project-specific performance measures and performance targets (as defined in this notice) consistent with the objectives of the proposed project. Applications must provide the following information as directed under 34 CFR 75.110(b) and (c):

(1) Performance measures. How each proposed performance measure would accurately measure the performance of the project and how the proposed performance measure would be consistent with the performance measures established for the program funding the competition.

(2) Baseline (as defined in this notice) data. (i) Why each proposed baseline is valid; or (ii) if the applicant has determined that there are no established baseline data for a particular performance measure, an explanation of why there is no established baseline and of how and when, during the project period, the applicant would establish a valid baseline for the performance measure.

(3) Performance targets. Why each proposed performance target is ambitious yet achievable compared to the baseline for the performance measure and when, during the project period, the applicant would meet the performance target(s).

(4) Data collection and reporting. (i) The data collection and reporting

methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data; and (ii) the applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

All grantees must submit an annual performance report with information that is responsive to these performance measures.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

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

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

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

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2020–07556 Filed 4–9–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–1495–000.
Applicants: Bucksport Generation LLC.
Description: § 205(d) Rate Filing: Normal filing 2020 to be effective 4/4/2020.
Filed Date: 4/3/20.
Accession Number: 20200403–5147.
Comments Due: 5 p.m. ET 4/24/20.

Docket Numbers: ER20–1496–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to WMPA, Service Agreement No. 5522; Queue No. AE1–075 to be effective 10/14/2019.
Filed Date: 4/3/20.
Accession Number: 20200403–5160.
Comments Due: 5 p.m. ET 4/24/20.

Docket Numbers: ER20–1497–000.
Applicants: ISO New England Inc.
Description: § 205(d) Rate Filing: ISO–NE Ministerial Filing to Conform Section III.13.6 of the Tariff to be effective 6/1/2020.
Filed Date: 4/3/20.
Accession Number: 20200403–5182.
Comments Due: 5 p.m. ET 4/24/20.

Docket Numbers: ER20–1498–000.
Applicants: Krayn Wind LLC.
Description: Notice of Cancellation of Market-Based Rate Tariff of Krayn Wind, LLC.
Filed Date: 4/3/20.
Accession Number: 20200403–5194.
Comments Due: 5 p.m. ET 4/24/20.

Docket Numbers: ER20–1499–000.
Applicants: Appalachian Power Company.
Description: § 205(d) Rate Filing: OATT—AEP Texas Inc. 1-Co Rate Update, Attach K and Misc related revisions to be effective 12/31/9998.
Filed Date: 4/3/20.
Accession Number: 20200403–5198.
Comments Due: 5 p.m. ET 4/24/20.

Docket Numbers: ER20–1500–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2020–04–06_SA 3471 Entergy Mississippi-Steelhead Wind 2 GIA (J866) to be effective 3/23/2020.
Filed Date: 4/6/20.
Accession Number: 20200406–5008.
Comments Due: 5 p.m. ET 4/27/20.

Docket Numbers: ER20–1501–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2020–04–06_Quarterly Tariff Clean-up Filing to be effective 4/7/2020.
Filed Date: 4/6/20.
Accession Number: 20200406–5024.
Comments Due: 5 p.m. ET 4/27/20.

Docket Numbers: ER20–1502–000.
Applicants: Wabash Valley Power Association, Inc.
Description: § 205(d) Rate Filing: New Wholesale Power Supply Contract—Parke Co REMC to be effective 6/5/2020.
Filed Date: 4/6/20.
Accession Number: 20200406–5077.
Comments Due: 5 p.m. ET 4/27/20.

Docket Numbers: ER20–1503–000.
Applicants: North Star Solar, LLC.
Description: Baseline eTariff Filing: NSS-Little Bear Shared Gen-Tie Facilities Common Ownership Agreement Filing to be effective 4/7/2020.
Filed Date: 4/6/20.
Accession Number: 20200406–5151.
Comments Due: 5 p.m. ET 4/27/20.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES20–17–000.
Applicants: Trans Bay Cable LLC.
Description: Supplement to February 21, 2020 Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Trans Bay Cable LLC.
Filed Date: 4/3/20.
Accession Number: 20200403–5228.
Comments Due: 5 p.m. ET 4/10/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified 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: April 6, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–07580 Filed 4–9–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–127–000]

ANR Pipeline Company; Notice of Request Under Blanket Authorization

Take notice that on March 31, 2020, ANR Pipeline Company (ANR), 700 Louisiana Street, Suite 700, Houston, Texas 77002, filed in the above referenced docket a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act and its blanket certificate issued in Docket No. CP18–503–000 for authorization to abandon by removal and/or in place sections of storage lateral Line 9780 within the Winfield Storage Field in Mecosta and Montcalm counties, Michigan (Winfield Storage Field Lateral Abandonment Project). ANR states that the proposed project will complete the abandonment of facilities related to the abandonment of 21 storage wells and appurtenant facilities authorized under Docket No. CP18–503–000. ANR estimates the cost of the project to be approximately $2.2 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Any questions regarding this application should be directed to Linda Farquhar, Principal Regulatory Specialist, ANR Pipeline Company, 700 Louisiana Street, Houston, Texas, 77002–2700, by telephone at (832) 320–5685, or by email at *linda_farquhar@tcenergy.com.*

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list and will be notified of any meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Dated: April 6, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–07575 Filed 4–9–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Number: PR20–48–000.

Applicants: Bridgeline Holdings, L.P.

Description: Tariff filing per 284.123(b)(2) + (: SOC update 2020 to be effective 4/1/2020.

Filed Date: 4/1/2020.

Accession Number: 202004015199.

Comments/Protests Due: 5 p.m. ET 4/22/2020.

Docket Numbers: RP20–764–000.

Applicants: Panhandle Eastern Pipe Line Company, LP.

Description: § 4(d) Rate Filing: Negotiated Rates Filing on 4/2/20 to be effective 4/1/2020.

Filed Date: 4/2/20.

Accession Number: 20200402–5003.

Comments Due: 5 p.m. ET 4/14/20.

Docket Numbers: RP20–765–000.

Applicants: Rover Pipeline LLC.

Description: § 4(d) Rate Filing: Summary of Negotiated Rate Capacity Release Agreements on 4–2–20 to be effective 4/1/2020.

Filed Date: 4/2/20.

Accession Number: 20200402–5004.

Comments Due: 5 p.m. ET 4/14/20.

Docket Numbers: RP20–766–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: List of Non-Conforming Service Agreements (LSE_Sequent) to be effective 5/3/2020.

Filed Date: 4/2/20.

Accession Number: 20200402–5073.

Comments Due: 5 p.m. ET 4/14/20.

Docket Numbers: RP20–768–000.

Applicants: Kern River Gas Transmission Company.

Description: § 4(d) Rate Filing: 2020 Pooling Revisions to be effective 5/4/2020.

Filed Date: 4/3/20.

Accession Number: 20200403–5038.

Comments Due: 5 p.m. ET 4/15/20.

Docket Numbers: RP20–769–000.

Applicants: Gulf South Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Remove Expired Agreement eff 4–3–2020 to be effective 4/3/2020.

Filed Date: 4/3/20.

Accession Number: 20200403–5104.

Comments Due: 5 p.m. ET 4/15/20.

Docket Numbers: RP20–770–000.

Applicants: Texas Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Remove Expired Agmts from the Tariff eff 4/3/2020 to be effective 4/3/2020.

Filed Date: 4/3/20.

Accession Number: 20200403–5106.

Comments Due: 5 p.m. ET 4/15/20.

Docket Numbers: RP20–771–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: Filing Clean up to be effective 4/13/2020.

Filed Date: 4/3/20.

Accession Number: 20200403–5122.

Comments Due: 5 p.m. ET 4/15/20.

Docket Numbers: RP20–772–000.

Applicants: Equitrans, L.P.

Description: Compliance filing Notice Regarding Non-Jurisdictional Gathering Facilities (MID 22229).

Filed Date: 4/3/20.

Accession Number: 20200403–5145.

Comments Due: 5 p.m. ET 4/15/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 6, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–07578 Filed 4–9–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11478–020]

Green Mountain Power Corporation; Notice of Application Accepted for Filing, Soliciting Comments, Motions to Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request for temporary variance of Article 402.

b. *Project No.:* 11478–020.

c. *Date Filed:* March 25, 2020.

d. *Applicant:* Green Mountain Power Corporation.

e. *Name of Project:* Silver Lake Hydroelectric Project.

f. *Location:* Sucker Brook in Addison County, Vermont.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Ms. Beth Eliason, P.E, vhb, 40 IDX Drive Building 100, Suite 200, South Burlington, VT 05403, (802) 497–6100.

i. *FERC Contact:* Mr. Jeremy Jessup, (202) 502–6779, *Jeremy.Jessup@ferc.gov*.

j. Deadline for filing comments, motions to intervene, and protests, is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/doc-sfiling/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket numbers P–11478–020.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The applicant proposes to temporarily modify the reservoir level elevation at the Sugar Hill reservoir for the remainder of 2020 due to dam safety concerns. The license is requesting to maintain the reservoir at the winter drawdown elevation of 1,747.5 feet mean sea level to reduce the safety risks associated with hydraulic head in the reservoir and resulting pressure on the concrete outlet structure. The licensee states that planned flow releases would meet or exceed the requirement to release 2.5 cubic feet per second, or inflow if less when the reservoir is at its summer minimum elevation. The applicant proposes this temporary modification until it can file and receive approval for an amendment to construct improvements to the conduit, which is expected to occur beginning in the spring of 2021.

l. *Locations of the Application:* In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's HomePage (*www.ferc.gov*) using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov or call toll-free* (866) 208–3676 or TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Motions to Intervene, or Protests:* Anyone may submit comments, a motion to intervene, or a protest in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, motions to intervene, or protests must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title COMMENTS, MOTION TO INTERVENE, or PROTEST as applicable; (2) set forth in the heading the name of the applicant and the project number(s) of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person intervening or protesting; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 385.2010.

Dated: April 6, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–07577 Filed 4–9–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP20–767–000]

ConocoPhillips Company, Shell Energy North America (US), L.P., XTO Energy Inc. v. Northern Border Pipeline Company; Notice of Complaint

Take notice that on April 2, 2020, pursuant to Rule 206 of the Rules of Practice and Procedures of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206 (2019), ConocoPhillips Company, Shell Energy North America (US), L.P., and XTO Energy Inc. (jointly Indicated Shippers or Complainants) filed a formal complaint against Northern Border Pipeline Company, (Northern Border or Respondent) alleging that Northern Border has entered into a prearranged transaction without complying with the no undue discrimination requirements of the Natural Gas Act and the Commission's regulations. In addition, the Indicated Shippers allege that Northern Border's pre-arranged transaction violated the Commission's policy on reserving unsubscribed capacity for a future expansion project. The Indicated Shippers respectfully request the Commission to: (1) Rescind the pre-arranged transaction; (2) require Northern Border to hold an open season where all interested parties will be on equal footing with respect to the potential transactions; and (3) direct Northern Border to cease from engaging in pre-arranged transactions where the unsubscribed capacity has not been publicly posted as generally available, all as more fully explained in the complaint.

The Complainants certifies that copies of the complaint were served on the contacts listed for Respondent in the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 22, 2020.

Dated: April 6, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–07576 Filed 4–9–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[10007–33–Region 5]

Proposed Prospective Purchaser Agreement for the Danville Central Foundry Landfill Site in Danville, Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Prospective Purchaser Agreement, notice is hereby given of a proposed administrative settlement concerning the Danville Central Foundry Landfill Site in Danville, Illinois with the following Settling Parties: Danville Foundry Holding, LLC and Ameresco Danville Foundry Solar LLC. The settlement requires the Settling Parties to, if necessary, execute and record a Declaration of Restrictive Covenant; provide access to the Site and exercise due care with respect to existing contamination. The settlement includes a covenant not to sue the Settling Parties pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act or the Resource Conservation and Recovery Act with respect to the Existing Contamination. Existing Contamination is defined as any hazardous substances, pollutants, or contaminants or Waste Material present or existing on or under the Property as of the Effective Date of the Settlement Agreement; any hazardous substances, pollutants, or contaminants or Waste Material that migrated from the Property prior to the Effective Date; and any hazardous substances, pollutants, or contaminants or Waste Material presently at the Site

that migrates onto, on, under, or from the Property after the Effective Date.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the EPA, Region 5, Records Center, 77 W Jackson Blvd., 7th Fl., Chicago, Illinois 60604. Commenters may request an opportunity for a public hearing in the affected area, in accordance with Section 7003(d) of RCRA.

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

ADDRESSES: The proposed settlement is available for public inspection at the EPA, Region 5, Records Center, 77 W Jackson Blvd., 7th Fl., Chicago, Illinois 60604. A copy of the proposed settlement may be obtained from Peter Felitti, Assoc. Regional Counsel, EPA, Office of Regional Counsel, Region 5, 77 W. Jackson Blvd., mail code: C–14J, Chicago, Illinois 60604. Comments should reference the Danville Central Foundry Landfill Site, Danville, Illinois and should be addressed to Peter Felitti, Assoc. Regional Counsel, EPA, Office of Regional Counsel, Region 5, 77 W. Jackson Blvd., mail code: C–14J, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Peter Felitti, Assoc. Regional Counsel, EPA, Office of Regional Counsel, Region 5, 77 W. Jackson Blvd., C–14J, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: The Settling Parties propose to acquire ownership of the former General Motors Corporation North American operation, at Interstate 74 at North G Street I Danville, Illinois. The Site is one of the 89 sites that were placed into an Environmental Response Trust (the ''Trust'') as a result of the resolution of the 2009 GM bankruptcy. The Trust is administrated by Revitalizing Auto Communities Environmental Response.

Dated: April 6, 2020.

Douglas Ballotti,

Director, Superfund & Emergency Management Division.

[FR Doc. 2020–07532 Filed 4–9–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10007–71–OMS]

Request for Nominations to the National and Governmental Advisory Committees to the U.S. Representative to the Commission for Environmental Cooperation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Request for Nominations.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is inviting nominations from a diverse range of qualified candidates to be considered for appointment to fill vacancies on the National Advisory Committee (NAC) and the Governmental Advisory Committee (GAC) to the U.S. Representative to the Commission for Environmental Cooperation (CEC). Vacancies on these two committees are expected to be selected by the spring of 2020. Please submit nominations by May 8, 2020. Additional sources may be utilized in the solicitation of nominees.

SUPPLEMENTARY INFORMATION: The National Advisory Committee and the Governmental Advisory Committee advise the EPA Administrator in his capacity as the U.S. Representative to the CEC Council. The Committees are authorized under Articles 17 and 18 of the North American Agreement on Environmental Cooperation (NAAEC). Implementation Act, Public Law 103–182, and as directed by Executive Order 12915, entitled ''Federal Implementation of the North American Agreement on Environmental Cooperation.'' The NAC and GAC are continued under the authority of Executive Order 13889, dated September 27, 2019, and operates under the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The Committees are responsible for providing advice to the United States Representative on a wide range of strategic, scientific, technological, regulatory and economic issues related to implementation and further elaboration of the NAAEC. The National Advisory Committee consists of 15 representatives from environmental non-profit groups, business and industry, and educational institutions. The Governmental Advisory Committee consists of 14 representatives from state, local, and tribal governments. Members are appointed by the EPA Administrator for a two-year term. The committees usually meet 3 times per year and the average workload for committee members is approximately 10 to 15 hours per month. Members serve on the committees in a voluntary capacity.

Although we are unable to provide compensation or an honorarium for your services, you may receive travel and per diem allowances, according to applicable federal travel regulations. EPA is seeking nominations from various sectors, *i.e.,* for the NAC we are seeking nominees from academia, business and industry, and non-governmental organizations; for the GAC we are seeking nominees from state, local and tribal government sectors. Nominees will be considered according to the mandates of FACA, which requires committees to maintain diversity across a broad range of constituencies, sectors, and groups. EPA values and welcomes diversity. In an effort obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups. The following criteria will be used to evaluate nominees:

- Professional knowledge of the subjects examined by the committees, including trade & environment issues, the USMCA and ECA, the NAFTA and NAAEC, and the CEC.
- Represent a sector or group involved in trilateral environmental policy issues.
- Senior-level experience in the sectors represented on both committees.
- A demonstrated ability to work in a consensus building process with a wide range of representatives from diverse constituencies.

Nominations must include a resume and a short biography describing the professional and educational qualifications of the nominee, as well as the nominee's current business address, email address, and daytime telephone number. Interested candidates may self-nominate. Anyone interested in being considered for nomination is encouraged to submit their application materials by May 8, 2020. To help the Agency in evaluating the effectiveness of its outreach efforts, please tell us how you learned of this opportunity. Please be aware that EPA's policy is that, unless otherwise prescribed by statute, members generally are appointed for two-year terms.

ADDRESSES: Submit nominations to: Oscar Carrillo, Designated Federal Officer, Office of Diversity, Advisory Committee Management and Outreach, U.S. Environmental Protection Agency (1601–M), 1200 Pennsylvania Avenue NW, Washington, DC 20460. You may also email nominations with subject line COMMITTEE RESUME 2020 to *carrillo.oscar@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Oscar Carrillo, Designated Federal Officer, U.S. Environmental Protection Agency (1601–M), Washington, DC 20460; telephone (202) 564–0347; fax (202) 564–8129; email *carrillo.oscar@epa.gov.*

Dated: April 6, 2020.

Oscar Carrillo,

Program Analyst.

[FR Doc. 2020–07527 Filed 4–9–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2020–0026; FRL–10007–06–OW]

Notice of Recent Specifications Review and Request for Information on WaterSense Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for information.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the completion of the review of WaterSense product performance criteria as required under the America's Water Infrastructure Act (AWIA) of 2018. The AWIA required the EPA to consider for review and revision, if necessary, specifications which were released prior to 2012. The EPA has completed its review and made the decision not to revise any specifications. A summary of the review and findings are included in this document. Additionally, this document announces that the EPA is seeking input and requesting information on any data, surveys, or studies to help assess consumer satisfaction with WaterSense labeled products, which could inform future product specification development. The EPA is also seeking input on how to design a study or studies to inform future reviews that incorporate customer satisfaction considerations. The results of these studies could inform future Agency action when developing criteria for labeling products in the WaterSense program. The EPA is also requesting input on whether it should include consumer satisfaction criteria into the WaterSense program guidelines and, if included, what criteria should be considered and how.

DATES: Comments on these items must be received on or before June 9, 2020.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OW–2020–0026, by the following method:

- *Federal eRulemaking Portal: https://www.regulations.gov/.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this notification. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''How do I submit written comments?'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For additional information, please contact Stephanie Tanner, Office of Water (mail code 4204M), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC, 20460; telephone number: 202–564–2660; or email: *Tanner.Stephanie@epa.gov* (preferred). Also see the following website for additional information on this topic: *https://www.epa.gov/watersense/product-specification-review.*

SUPPLEMENTARY INFORMATION:

I. How do I submit written comments?

Submit your comments, identified by Docket ID No. EPA–HQ–OW–2020–0026, at *https://www.regulations.gov/.* Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. Background

The Energy Policy Act (EPAct) of 1992 amended the Energy Policy and Conservation Act by, among other things, establishing mandatory minimum water use standards for plumbing products, with compliance required beginning in 1994. The EPAct mandated a maximum flush volume of 1.6 gallons per flush (gpf) for toilets, 2.2 gallons per minute (gpm) flow rate for faucets, and a 2.5 gpm flow rate for showerheads. The Department of Energy (DOE) issued regulations implementing those statutory standards. The first toilets and showerheads that met these standards in the mid-1990s did not perform well because they had not been redesigned to use less water.

In the early 2000's, a stakeholder group of about 100 cities, water utilities, non-governmental organizations, and manufacturers of water-using products approached the EPA to ask for assistance in bringing order and credibility to the marketplace for water-efficient products. Several utilities were working to develop their own performance test methods for products, but each individual utility had different tests and different lists of approved products. Manufacturers noted that it was difficult and expensive to make products that met different requirements. Stakeholders expressed a wish for an ''ENERGY STAR''-like program for water-using products that would be both voluntary and non-regulatory. The EPA responded by launching the WaterSense program in 2006.

WaterSense is a voluntary partnership program sponsored by the EPA which was initially launched in 2006 as an initiative to educate American consumers on making smart water choices that save money and maintain high performance standards. The WaterSense label makes it easier for consumers to identify water-efficient products, new homes, and programs that meet the EPA's criteria for efficiency and performance. WaterSense-labeled products and services are independently certified to use at least 20 percent less water, save energy, and perform as well as or better than standard models. WaterSense partners with manufacturers, retailers and distributors, homebuilders, irrigation professionals, and utilities to encourage innovation in manufacturing and support jobs for American workers.

To date, the program has specifications for the seven products identified in the table below. Criteria for the specifications have also been adopted into voluntary consensus reference standards. Several of the products are also covered by mandatory federal DOE plumbing standards, as described in the table. More than 30,000 models of products have been certified to the WaterSense label and nearly 500 million products have been shipped, according to reporting by WaterSense manufacturer partners.

Specification	Initial release date (current version with release date)	Reference standards	Covered by DOE regulation?
WaterSense Specification for Tank-Type Toilets.	January 24, 2007 (Version 1.2, June 2, 2014)	*American Society of Mechanical Engineers (ASME) A112.19.2/Canadian Standards Association (CSA) B45.1.*	Yes.
High-Efficiency Lavatory Faucet Specification.	October 1, 2007	*ASME A112.18.1/CSA B125.1*	Yes.
WaterSense Specification for Flushing Urinals.	October 8, 2009	*ASME A112.19.2/CSA B45.1; American Society of Sanitary Engineering (ASSE) 1037.*	Yes.
WaterSense Specification for Showerheads.	March 4, 2010 (Version 1.1, July 26, 2018)	*ASME A112.18.1/CSA B125.1*	Yes.
WaterSense Specification for Weather-Based Irrigation Controllers.	November 3, 2011	Smart Water Application Technologies (SWAT) Test Protocol for Climatologically Based Controllers (Draft) with modifications.	No.
WaterSense Specification for Flushometer-Valve Water Closets.	December 17, 2015	*ASME A112.19.2/CSA B45.1 Ceramic Plumbing Fixtures, ASME A112.19.3/CSA B45.4 Stainless Steel Plumbing Fixtures, or CSA B45.5/IAPMO Z124 Plastic Plumbing Fixtures.*	Yes.
WaterSense Specification for Spray Sprinkler Bodies.	September 21, 2017	*ASABE/ICC 802–2014, Sprinkler and Bubbler Design Requirements.*	No.

III. The American Water Infrastructure Act (AWIA) of 2018 and Review of Specifications

The WaterSense program was officially authorized by Congress in October 2018 under the AWIA (Pub. L. 115–270, Section 4306). The provisions under section 4306 of AWIA are largely consistent with how the program has operated since it began. The law requires the program to periodically review and, if appropriate, revise specifications, although not more frequently than every six years after adoption or major revision of performance criteria. The law also required that, not later than December 31, 2019, the EPA ''consider for review and revise, if necessary, any WaterSense performance criteria adopted before January 1, 2012.'' In response to AWIA, the EPA commenced a review of five WaterSense specifications that were issued prior to January 1, 2012: Tank type toilets, lavatory faucets and accessories, showerheads, flushing urinals, and weather-based irrigation controllers.

The EPA initiated its specification review process in December 2018 when it released the WaterSense Notice of Specification Review.[1] That notice provided the EPA's initial considerations and criteria for evaluating whether to revise the relevant specifications. The EPA considered the following in determining the feasibility in establishing, or in this case, revising a product specification:

- Equal or superior product performance compared to conventional models,
- Potential for significant water savings on a national level,
- State of technology development—product categories that rely on a single, proprietary technology will not be eligible for the label,
- Assurance that the development (or revision) of a specification will not lead to unintended or negative environmental or economic impacts,
- Ability to measure and verify water savings and performance, and
- Cost-effectiveness.

In the context of the criteria above, the EPA reviewed the scope, efficiency, and performance criteria within each specification under consideration for revision to determine if updates may be necessary. The EPA also reviewed the current product marketplace, including product shipment data submitted by WaterSense manufacturer partners as part of annual reporting, to understand the market share of WaterSense labeled products and learn about technological advancements and subsequent efficiency and performance improvements that have been made since each specification's initial release.

The evaluation considered technical and scientific studies, trends in product labeling, other specifications (regulatory or voluntary), and market drivers. WaterSense considered the water savings potential of changes; as well as potential impacts on product performance, the larger built system, and public health. WaterSense also sought feedback on potential scope expansion and/or new product categories for labeling.

Throughout 2019, the EPA conducted additional product research and collected information from program stakeholders related to the current marketplace for WaterSense labeled products. The EPA also solicited feedback on potential changes to each specification's scope, water efficiency criteria, performance criteria, and the marking requirements of the product package. Through solicitation of public comments[2] and a series of public webinars[3] targeted to specific stakeholder groups, the EPA collected feedback to help guide its decision-making with respect to considering specification revisions.

Comments received and polls conducted during the public webinars showed a difference of opinion among partner types as to the decisions the program should make. Based on the public comments submitted, plumbing manufacturers generally preferred to maintain the current specification efficiency levels and suggested WaterSense instead focus on improving stock penetration of existing labeled products. Promotional partners (*e.g.,* water utilities, units of local government, non-governmental organizations) generally indicated they were interested in improved efficiency, but not necessarily at the expense of product or plumbing system performance. Summaries of the certification trends and stakeholder input from the informal stakeholder polls taken during the EPA's specification review public webinars are available on the WaterSense website at *https://www.epa.gov/watersense/product-specification-review.*

Some commenters raised concerns about potential impacts that water efficiency could have on building

[1] *WaterSense Notice of Specification Review,* December 20, 2018. *www.epa.gov/sites/production/files/2018-12/documents/ws-notice-of-specification-review.pdf.*

[2] A compilation of public comments received as part of the EPA's specification review can be viewed at *www.epa.gov/watersense/product-specification-review#Comments.*

[3] Presentation materials, meeting summaries, and recordings can be accessed at *www.epa.gov/watersense/product-specification-review#webinars.*

premise plumbing systems, drinking water and wastewater infrastructure, and water quality. These commenters stated many buildings and infrastructure systems, including residential home plumbing systems, within the United States were designed for much higher water demand and flows. With more efficient plumbing fixtures and appliances available, and changes in how water is used, there is potential to create flow conditions within plumbing systems that are different from what they were designed to accommodate. For example, commenters noted drinking water has a longer residence time in the plumbing system pipes before delivery indoors for public use. A reduction to the flow rate may contribute to conditions (*e.g.,* water aging, temperature, odor) that are conducive to the growth of opportunistic pathogens (*e.g.,* Legionella pneumophila) and other water quality issues. To understand these issues further, in August 2018 the EPA co-organized a workshop with the National Institute of Standards and Technology (NIST) and the Water Research Foundation (WRF) to establish research objectives related to water use efficiency and water quality in premise plumbing systems. Participants from the workshop identified research gaps that are still needed relating to low flow volumes on premise plumbing systems and its impact on water quality, usage, and efficiency.

Comments were also received regarding potential impacts on state laws of further lowering the WaterSense requirements for water consumption levels for tank-type toilets, lavatory faucets, urinals and showerheads. For example, at least six states have already adopted regulations mandating performance requirements consistent with the EPA WaterSense specifications. The EPA is aware that further revisions to the criteria to improve water efficiency beyond the current WaterSense specifications may result in state law and local adoption of requirements.

The EPA considered all information provided and comments received in its specification review as required under AWIA and made the decision not to make changes to existing specifications. In future reviews, the EPA will further consider the issues raised in this review related to system performance, health, and safety. Also, the EPA is focused on promoting plumbing and infrastructure systems that are built and managed for both water efficiency and water quality. As such, WaterSense will be cognizant of these potential unintended consequences as it considers revisions to any of its product specifications.

As part of its specification development review process, the EPA has solicited information from program partners on what updates to performance criteria or referenced standards WaterSense should consider incorporating into specifications that would benefit the user experience and ensure long-term water savings. In future reviews, the EPA is considering including requests for additional information from program partners regarding consumer satisfaction and product choice in the performance specification review of the WaterSense products. Several commenters advised the EPA to conduct a user satisfaction study prior to a revision of a performance specification. This action seeks comment from the broader public in order to address the potential and method for inclusion of consumer satisfaction when evaluating changes to the WaterSense product performance criteria. The EPA request for consumer satisfaction information is discussed further in section V of this document.

IV. Summary of Information Collected From the WaterSense Specification Review

Each product-specific section below includes a summary of the EPA's findings in the WaterSense specification review process. As noted above, the EPA has made the determination not to revise any of the specifications. In the future, should the Agency make the decision to revise the specification of any WaterSense product, a Notice of Intent (NOI) would officially initiate the specification revision process. In the NOI, the EPA would identify potential major and minor revisions it intends to include in the specification revision. Stakeholders will have an opportunity to comment on the content of the NOI prior to the EPA's development of any draft revised specification for each WaterSense product-specific type. The draft specification would likewise be made available for public comment prior to final revisions.

(a) Tank-Type Toilets

The Federal standard for tank-type toilets set a maximum flush volume of 1.6 gallons per flush (gpf). The EPA released the WaterSense Specification for Tank-Type Toilets on January 24, 2007, which set a maximum efficiency level of 1.28 gpf and established criteria to evaluate performance. The EPA has since completed two minor revisions to the specification, releasing the latest version (Version 1.2) in June 2014. To date, manufacturer partners have produced nearly 3,900 WaterSense labeled tank-type toilet models.

As part of its review of the tank-type toilets specification, the EPA considered whether to reduce the maximum allowable flush volume criteria to improve water efficiency beyond what is required in the current WaterSense specification. The EPA also considered whether to modify its performance criteria to require that labeled toilets be able to flush a larger quantity of waste and/or toilet paper.

While not specifically included as a consideration in the *WaterSense Notice of Specification Review,* during the stakeholder engagement process the EPA received feedback from several utility and promotional partners expressing concern about the actual water savings from dual-flush toilets. Under the current specification, dual-flush toilets must have an effective flush volume not to exceed 1.28 gallons gpf (4.8 liters per flush [lpf]) and remove at least 350 grams of solid waste per flush. As a result of the public comments, the EPA also considered whether to modify or eliminate the effective flush calculation from the specification.

Findings

To date, eight states and multiple municipalities throughout the United States have adopted regulations mandating that tank-type toilets have a flush volume of 1.28 gpf or less, consistent with the WaterSense specification. A report commissioned by Plumbing Manufacturers International (PMI) estimates that the market penetration of WaterSense labeled tank-type toilet models is only 17 percent of all models currently installed in the United States.[4] While many jurisdictions now require 1.28 gpf toilets, the EPA does not know of any that mandate toilets to flush below 1.28 gpf. Therefore, the market has not shifted below the WaterSense water efficiency threshold.

As part of the specification review, the EPA received feedback from several utility and promotional partners expressing concern over water savings resulting from dual-flush toilets. Currently, WaterSense labeled dual-flush toilets may have full-flush volumes of up to 1.6 gpf (commensurate with a standard toilet) and still meet the effective flush volume requirement. Commenters indicated that realization of water savings is based on user behaviors related to activation of the full- and reduced-flushes and expressed

[4] GMP Research Inc., June 2019. *2019 U.S. WaterSense Market Penetration.* A GMP Research Industry Report commissioned by PMI.

concern that the effective flush volume ratio of two reduced flushes to one full flush is not typically employed in real-world applications. As a result, WaterSense labeled dual-flush tank-type toilets might not achieve the minimum 20 percent water savings.[5]

Comments were also received relating to increasing the quantity of waste and/or toilet paper beyond the 350 grams of solid waste per flush required. A comment was made that this may encourage manufactures to focus on solids and not sufficiently on other attributes like bowl cleaning and lighter waste removal, which require fluid dynamic design considerations different from bulk waste removal. According to a customer satisfaction survey conducted by the Metropolitan Water District of Southern California in 1999, bowl cleanliness was the number one reason for double flushing. Increasing the gram requirement may unduly impact product choice, consumer satisfaction and offset any savings in water usage.

Currently, the EPA is funding two studies examining low-flow plumbing fixtures on water quality: Drexel University, ''Water Conservation and Water Quality: Understanding the Impacts of New Technologies and New operational Strategies;'' and Purdue, Michigan State, and San Jose Universities, ''Right Sizing Tomorrow's Water Systems for Efficiency, Sustainability, and Public Health.'' These studies will provide insight on the potential impact of declining wastewater flows of pollutants and solid concentrations through the premise plumbing system on blockages, odor, corrosion in pipes, and subsequently, on water quality and human health. In light of these ongoing studies, and consideration of the public comments received, the EPA has made the determination not to make changes to existing specifications. The EPA would like to more fully evaluate the impacts of low-flow plumbing fixtures on water quality and public health. The EPA would consider information from these studies in any future review. In addition, as discussed below, the EPA would consider available data gathered from this action on customer satisfaction and the impacts of a change on consumer product choice in any further review of product specification.

[5] See the WaterSense Plumbing Fixtures Specification Review Webinar for a summary of dual-flush toilet studies. For tank-type toilets, ratios of reduced flushes to full flushes ranged from 0.48:1 to 1.7:1.

(b) Lavatory Faucets and Faucet Accessories

The Federal standard for lavatory faucets set a maximum flow rate of 2.2 gallons per minute (gpm). The EPA released the High-Efficiency Lavatory Faucet Specification on October 1, 2007, which set a maximum flow rate of 1.5 gpm and established criteria to evaluate performance. WaterSense has not revised the specification since its initial release. The specification currently establishes criteria for lavatory faucets and faucet accessories (*e.g.,* flow restrictors, flow regulators, aerator devices, laminar devices). To date, manufacturers have produced more than 18,000 WaterSense labeled lavatory faucet and accessory models.

As part of its review of the lavatory faucets and accessories specification, the EPA considered whether to reduce the maximum allowable flow rate criteria to improve water efficiency beyond the current WaterSense specification. The EPA also considered whether to expand the scope of the specification to accommodate other faucet types, including residential kitchen faucets and metering faucets as requested by manufacturers over the last several years.

Findings

To date, five states and multiple municipalities throughout the United States have adopted regulations mandating that lavatory faucets have a flow rate of 1.5 gallons per minute (gpm) (5.7 liters per minute [lpm]) or less, consistent with the WaterSense specification. Further, unlike tank-type toilets where states have adopted efficiency regulations at the WaterSense level, some states have established regulations setting flow rates lower than the WaterSense flow rate maximum for lavatory faucets. As of July 1, 2016, California requires lavatory faucets to have a flow rate of 1.2 gpm [4.5 lpm] or less. Washington and Hawaii subsequently enacted similar efficiency regulations for lavatory faucets, which take effect in 2021.

The EPA has not been made aware of any performance issues related to lavatory faucets flowing at 1.0 or 1.2 gpm. As part of its initial specification development, the EPA established a minimum flow rate 0.8 gpm [3.0 lpm] at 20 psi to ensure user satisfaction with WaterSense labeled lavatory faucets and faucet accessories across a range of potential household water pressures. The EPA needs to further evaluate available data and information to determine if a different minimum flow rate is appropriate and if it will meet customer expectations.

Five states throughout the United States, including California, have adopted regulations mandating that residential kitchen faucets have a maximum flow rate of 1.8 gpm [6.8 lpm] or less—nearly 20 percent lower than the current national standard with the option to have an override that allows the faucet to temporarily flow up to 2.2 gpm [8.3 lpm] for pot filling. Compliant products in California are listed on the California Modernized Appliance Efficiency Database System (MAEDBS).

The EPA would need to evaluate multiple performance considerations as part of the specification development process for residential kitchen faucets should this product-type be added to the WaterSense program. Considerations include, but are not limited to, whether to incorporate a minimum flow rate and whether to allow a temporary override for pot filling. Further, as discussed below, a review of customer satisfaction data and data on the impacts of a change on consumer product choice would help provide a comprehensive evaluation of existing product performance for both lavatory and kitchen faucets. Based on these findings, the EPA has made the determination not to make changes to existing specifications for lavatory faucets.

(c) Showerheads

The Federal standard for showerheads sets a maximum flow rate of 2.5 gallons per minute (gpm). The EPA released the WaterSense Specification for Showerheads on March 4, 2010, which set a maximum flow rate of 2.0 gpm and established criteria to evaluate performance. WaterSense completed a minor revision to the specification, releasing Version 1.1 on July 26, 2018. To date, manufacturers have produced more than 9,300 WaterSense labeled showerhead models.

As part of its review of the showerhead specification, the EPA considered whether to adjust the maximum flow rate criteria to improve water efficiency beyond the current WaterSense specification. The EPA also considered how any adjustment to the flow rate could have unintended consequences to public health and safety without the corresponding change to the overall infrastructure of the premise plumbing system.

Findings

The EPA has observed market changes since the initial publication of the specification in 2010. To date, five states and multiple municipalities throughout the United States have

adopted regulations mandating that showerheads have a flow rate of 2.0 gallons per minute (gpm) (7.6 liters per minute [pm]) or less, consistent with the WaterSense specification. In addition, as of July 1, 2018, California requires showerheads to have a flow rate of 1.8 gpm [6.8 lpm] or less. Washington and Hawaii have subsequently enacted similar efficiency regulations for showerheads, which take effect in 2021.

To date, approximately 63 percent of WaterSense labeled showerheads (as defined by the American Society of Mechanical Engineers) have a maximum flow rate of 1.8 gpm or less, and 77 percent of models certified since 2017 have a maximum flow rate of 1.8 gpm or less.

In public comments, some manufacturers expressed concern that reducing the maximum flow rate to 1.8 gpm or less would result in more consumer complaints. In addition, several stakeholders expressed caution regarding lowering the flow rate further without consideration of health and safety impacts, including waterborne opportunistic pathogens (*e.g., Legionella*), thermal shock, and scalding. While water conservation is only one of potentially many factors influencing water quality in premise plumbing, showers are one of the primary routes of exposure through which humans could encounter these waterborne pathogens. The two research studies the EPA is currently funding will provide more insight on the impacts of water conservation (lowering the flow rate) on public health.[6] [7]

In addition, since the initial release of the specification, the plumbing industry has worked to harmonize the automatic-compensating mixing valve standard (ASSE 1016/ASME A112.1016/CSA B125.16 *Performance requirements for automatic compensating valves for individual showers and tub/shower combinations*) and the showerhead standard (ASME A112.18.1/CSA B125.1). This harmonization was completed to address incompatibilities of these plumbing system components and to ensure products are marked and packaged consistently to educate consumers and plumbing professionals on thermal shock and scalding risks. As part of its specification review, the EPA received comments that thermal shock and scalding pose a greater risk at lower showerhead flow rates. However, one water utility stated that thousands of higher-efficiency (*i.e.,* 1.5 gpm or less) showerheads have been given away by California energy providers without complaints or reported incidents related to thermal shock and scalding.

Based on its findings, the EPA has decided to make no changes to the product specification. In any future review, as discussed below, the EPA will consider information from the two ongoing studies and data on consumer satisfaction.

(d) Flushing Urinals

The Federal standard for urinals sets a maximum flush volume of 1.0 gallons per flush (gpf). The EPA released the WaterSense Specification for Flushing Urinals on October 8, 2009, which set a maximum flush volume of 0.5 gpf and established criteria to evaluate performance. WaterSense has not revised the specification since its initial release. To date, manufacturers have produced more than 700 WaterSense labeled product models—including flush devices, fixtures, and urinal systems (combinations of urinal flushing devices and fixtures).

As part of its review of the flushing urinals specification, the EPA considered whether to adjust the maximum allowable flush volume criteria to improve water efficiency beyond the current WaterSense specification, taking into account the potential impact this may have on the plumbing system and drain line performance. The EPA also considered whether to expand the scope of the specification to include either non-water urinals or non-water urinals with a drain-cleansing action.

Findings

To date, six states and multiple municipalities throughout the United States have adopted regulations mandating that urinals have a flush volume of 0.5 gallons per flush (gpf) (1.9 liters per flush [lpf]) or less, consistent with the WaterSense specification. As of January 1, 2016, California requires wall-mounted urinals to have a flush volume of 0.125 gpf [0.5 lpf] or less, although non-wall mounted urinals can have a flush volume up to 0.5 gpf. Washington enacted similar efficiency regulations for urinals, which take effect starting in 2021.

A report commissioned by PMI estimates that the market penetration of WaterSense labeled models is as low as 2 percent of all models currently installed.[8]

While some states and municipalities have chosen to move forward with promoting more efficient urinals, several stakeholders, including water utilities, raised concerns in written comments about the efficacy and performance of ultra-high-efficiency (*i.e.,* 0.125 gpf) urinals and non-water urinals, particularly in retrofit applications where a building's plumbing system was not designed for lower flows. As part of its specification review, the EPA was not able to identify any new research that assessed the impacts of flow rate on urinal performance, although it is aware of one study that is ongoing in Austin, Texas that intends to evaluate the impacts of flow rate and water quality on urinal and drain line performance. The study is also looking into the excessive build-up of struvite, a common reason for drain line blockages, and the odor associated with low flow and non-water urinals. The EPA learned during the review that consumer dissatisfaction of drain line blockages and odor have led to product replacements of low flow and non-water urinals. More information is needed to understand the scope of these consumer concerns and if other concerns exist.

With this specification review, the EPA did not receive sufficient data or information to suggest that it should incorporate non-water urinals into the WaterSense urinals specification.

The EPA has made the determination not to make changes to existing specifications. The EPA will monitor ongoing research on flushing urinals and other types of urinals available now or entering the marketplace. If information becomes available that provides more data on the efficacy of ultra-high-efficiency (*i.e.,* 0.125 gpf) urinals, non-water urinals, and non-water urinals with a drain-cleansing action, the EPA would consider this information in any future review. Further, as discussed below, a review of customer satisfaction data and data on the impacts of a change on consumer product choice would help provide a complete comprehensive evaluation of existing product performance.

(e) Weather-Based Irrigation Controllers

The EPA released the WaterSense Specification for Weather-Based Irrigation Controllers on November 3, 2011. There are no Federal standards for this product category. While the EPA

[6] Drexel University, Pennsylvania State University and University of Colorado at Boulder. ''Water Conservation and Water Quality: Understanding the Impacts of New Technologies and New Operational Strategies.'' EPA Grant Number: R836880.

[7] Purdue University, Michigan State University, San Jose State University and Tulane University. ''Right Sizing Tomorrow's Water Systems for Efficiency, Sustainability, and Public Health.'' EPA Grant Number: R836890.

[8] GMP Research Inc, June 2019. *2019 U.S. WaterSense Market Penetration.* A GMP Research Industry Report commissioned by PMI.

has not revised this specification since its publication, WaterSense has issued several technical clarifications in the intervening years to better define the requirements. The specification applies to stand-alone controllers, add-on devices, and plug-in devices (collectively referred to in the specification as controllers) that use weather data as a basis for scheduling irrigation.

Weather-based irrigation controllers currently on the market either: (1) Utilize onsite weather sensors; (2) receive a weather signal from a local weather station(s); or (3) use both to schedule irrigation to meet plant needs. To date, manufacturers have produced nearly 800 WaterSense labeled weather-based irrigation controller models.

As part of its review of the weather-based irrigation controller specification, the EPA considered whether a significant growth in the market for these products and a shift to cloud-based products would benefit from a revision to the specification. Specifically, the EPA considered whether to revise the test method used to determine product performance. The EPA also considered whether to revise the supplemental capability requirements and/or product packaging and labeling requirements.

The EPA acknowledges that there has been a significant increase in both the number of brands of weather-based irrigation controllers on the market, as well as the number of labeled models since the specification was published in 2011. Further, due to technological advancements in the industry, there has been a shift to cloud-based products that make use of smartphones and smart home devices. Many manufacturers and other stakeholders currently in the marketplace were not in existence and able to participate in specification development prior to 2011, so WaterSense aimed to ensure their input was received during the specification review process. The EPA has evaluated the specification, as described below, in light of this market growth to ensure the specification developed in 2011 is still relevant for products entering the market today.

Findings

While market growth has been significant since the release of the specification, WaterSense estimates that less than 10 percent of existing irrigation systems installed in the United States have a smart irrigation control technology,[9] or those that alter irrigation schedules based on weather or soil moisture data. Because the remaining 90 percent of the market available for transformation will likely move towards smart irrigation control technology, stakeholders, including both utilities and manufacturers, were not in favor of revising the specification.

The EPA also asked stakeholders during the specification review process whether the supplemental capability requirements included in the current version of the specification remained relevant for products entering the market today. The EPA received no feedback during the public comment period, stakeholder webinars or targeted outreach indicating that any of these requirements should be removed. Two commenters expressed concern over products being able to be easily switched to or operate in standard mode.

The EPA has made the determination not to make changes to existing specifications. The EPA will continue to participate in the American Society of Agricultural and Biological Engineers (ASABE) X627 *Environmentally Responsive Landscape Irrigation Control Systems* standard development process. In addition, as discussed below, the EPA will consider data received on customer satisfaction and the impact of a consumer product choice in its review of product performance in any future review.

V. Request for Information on Consumer Satisfaction

As the EPA developed the framework for the WaterSense program to provide opportunities for additional water savings, the WaterSense program established a goal that labeled products should use at least 20 percent less water than standard products. The program includes efficiency criteria in its specifications to assess products for water use. Additionally, the program set a goal that labeled products should perform as well as or better than regular models and included performance criteria in its specifications to assess performance.

WaterSense has included strong performance requirements in its specifications and used independent organizations to certify that labelled products meet the EPA criteria. The Agency is seeking to better understand consumer satisfaction with the performance of existing labelled products and whether further changes to the specifications could impact consumer satisfaction. The Agency is also exploring ways that it could collect additional information on consumer satisfaction through its own consumer survey or surveys to inform future decision-making. Understanding consumer satisfaction is important to the EPA as the Agency seeks to ensure that our performance criteria review is in fact ensuring that labelled products are meeting the same standards as products on the market before the WaterSense label was adopted. This request for information will also help the program identify performance issues it may be able to correct by including new, or revising existing, performance criteria in its product specifications.

WaterSense has an ongoing dialogue with program partners (described in Section II of this document) about the program. In order to more fully assess consumer satisfaction, WaterSense is working with its program partners to identify any data, surveys, or studies that have assessed consumer satisfaction with labeled products but recognizes that additional information may exist. WaterSense does not currently collect information on the purchase of individual products, but some of its program partners and other parties may have information to help the EPA evaluate whether consumers are satisfied with water-efficient WaterSense labeled products. For example, retail partners or manufacturers may have information on whether WaterSense labeled products are returned at a proportionally greater or lower rate than non-labeled products or other indications of consumer satisfaction. Water utilities and local governments which provide rebates for WaterSense labeled products may have information to assess whether their customers who received rebates are satisfied with their purchase. However, there may be non-partners who can also provide responsive information. Specifically, the EPA is requesting information on any data, surveys, or studies that have assessed consumer satisfaction with WaterSense labeled or standard products.

Understanding consumer satisfaction is important to the EPA as the Agency seeks to ensure that our performance criteria review is in fact ensuring that labelled products are meeting the performance expectations of the consumer. With this action, the EPA is

[9] Schein, Letschert, Chan, Chen, Dunham, Fuchs, McNeil, Melody, Stratton, and Williams. 2017. Methodology for the National Water Savings and Spreadsheet: Indoor Residential and Commercial/Institutional Products, and Outdoor Residential Products. Lawrence Berkley National Laboratory. Table A–4. Schein et al. describes the detailed technical approach to WaterSense's stock accounting practice for irrigation products using values available as of the publication date. As it is the EPA's practice to continuously update its work as data become available, the values referenced here are for the 2018 analysis, the most recent year available.

requesting input on ways it could better understand and collect information on consumer satisfaction with WaterSense labelled products as the EPA continues to evaluate considerations relating to system performance, health, and safety. Specifically, the EPA is seeking input on how it could design a study or studies for use in future reviews that incorporate customer considerations. For example, we are interested in input on how we could use a survey or surveys to determine what type of products consumers would like to see on the market, the performance attributes that are important to consumer choice and satisfaction, the range of performance customers are seeking in those attributes, and what additional features or options related to efficiency consumers would like to see in WaterSense products. The EPA is also interested in input on the collection method, frequency, and source of the information as we seek to balance any burden the collection would impose on the public with the usefulness the information would provide the Agency.

Lastly, the EPA seeks input on whether there are specific consumer satisfaction considerations, test methods, or additional criteria it should consider adding to the WaterSense guidelines.

Dated: April 7, 2020.

Andrew D. Sawyers,

Director, Office of Wastewater Management.

[FR Doc. 2020–07602 Filed 4–9–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9050–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed March 30, 2020, 10 a.m. EST Through April 6, 2020, 10 a.m. EST Pursuant to 40 CFR 1506.9.

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20200079, Final, NHTSA, REG, Final EIS for The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Year 2021–2026 Passenger Cars and Light Trucks, Contact: Vinay Nagabhushana 202–366–1452.

Under 49 U.S.C. 304a(b), NHTSA has concurrently issued a final environmental impact statement and record of decision. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

EIS No. 20200080, Revised Final, USFS, WY, Medicine Bow Landscape Vegetation Analysis (LaVA) Project, Review Period Ends: 05/11/2020, Contact: Melissa Martin 307–745–2371.

EIS No. 20200081, Draft, TVA, IL, Sugar Camp Energy, LLC Mine Number 1, Comment Period Ends: 05/27/2020, Contact: Elizabeth Smith 865–632–3053.

EIS No. 20200082, Final, USFS, CO, Rio Grande Forest Plan Revision, Review Period Ends: 05/11/2020, Contact: Judi Perez 719–588–8889.

EIS No. 20200083, Final, BLM, NM, Borderlands Wind Project Final Environmental Impact Statement and Proposed Resource Management Plan Amendment, Review Period Ends: 05/11/2020, Contact: James Stobaugh 775–861–6478.

EIS No. 20200084, Revised Draft, GSA, AZ, Expansion and Modernization of the San Luis I Land Port of Entry, Comment Period Ends: 07/02/2020, Contact: Osmahn Kadri 415–522–3617.

EIS No. 20200085, Final, USACE, CA, Final Sacramento River Bank Protection Project Phase II Supplemental Authorization Environmental Impact Statement/Environmental Impact Report, Review Period Ends: 05/11/2020, Contact: Patricia Goodman 916–557–7420.

Amended Notice

EIS No. 20200055, Draft, CHSRA, CA, California High-Speed Rail: Bakersfield to Palmdale Section Draft Environmental Impact Report/Environmental Impact Statement, Comment Period Ends: 04/28/2020, Contact: Dan McKell 916–501–8320. Revision to FR Notice Published 2/28/2020; Extending the Review Period from 4/13/2020 to 4/28/2020.

Dated: April 6, 2020.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2020–07572 Filed 4–9–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10006–92–OW]

Notice of Availability of the Deepwater Horizon Oil Spill Louisiana Trustee Implementation Group Final Restoration Plan and Environmental Assessment #6: Wetlands, Coastal, and Nearshore Habitats and Finding of No Significant Impact

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the Federal and State natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) prepared the Final Restoration Plan and Environmental Assessment #6: Wetlands, Coastal, and Nearshore Habitats (Final RP/EA #6). The Final RP/EA #6 describes and, in conjunction with the associated Finding of No Significant Impact (FONSI), selects three restoration project alternatives considered by the Louisiana TIG to restore and conserve wetlands, coastal, and nearshore habitats injured as a result of the *Deepwater Horizon* oil spill. The Louisiana TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment (NRDA) regulations, and also evaluated the environmental consequences of the restoration alternatives in accordance with the NEPA. The selected projects are consistent with the restoration alternatives selected in the *Deepwater Horizon* Oil Spill Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS). The Federal Trustees of the Louisiana TIG have determined that implementation of the Final RP/EA #6 is not a major federal action significantly affecting the quality of the human environment within the context of the NEPA. They have concluded a FONSI is appropriate, and, therefore, an Environmental Impact Statement will not be prepared. This notice informs the public of the approval and availability of the Final RP/EA #6 and FONSI.

ADDRESSES: *Obtaining Documents:* You may download the Final RP/EA #6 and FONSI at any of the following sites:

- *http://www.gulfspillrestoration.noaa.gov*
- *http://www.la-dwh.com*

Alternatively, you may request a CD of the Final RP/EA #6 and FONSI (see **FOR FURTHER INFORMATION CONTACT**). You may also view the document at any of the public facilities listed at *http://www.gulfspillrestoration.noaa.gov.*

FOR FURTHER INFORMATION CONTACT:

- Louisiana—Joann Hicks, 225–342–5477
- EPA—Douglas Jacobson, 214–665–6692

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252–MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in the release of an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest offshore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. The Trustees conducted the natural resource damage assessment for the *Deepwater Horizon* oil spill under the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*). Under the OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. The OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The *Deepwater Horizon* oil spill Trustees are:

- U.S. Environmental Protection Agency (EPA);
- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- State of Louisiana Coastal Protection and Restoration Authority (CPRA), Oil Spill Coordinator's Office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF), and Department of Natural Resources (LDNR);
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas Parks and Wildlife Department, General Land Office, and Commission on Environmental Quality.

On April 4, 2016, the Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Louisiana Restoration Area are chosen and managed by the Louisiana TIG. The Louisiana TIG is composed of the following Trustees: CPRA, LOSCO, LDEQ, LDWF, LDNR, EPA, DOI, NOAA, USDA.

Background

A Notice of Availability of the *Deepwater Horizon* Oil Spill Louisiana Trustee Implementation Group Draft Restoration Plan and Environmental Assessment #6: Wetlands, Coastal, and Nearshore Habitats (Draft RP/EA #6) was published in the **Federal Register** at 84 FR 70186 on December 20, 2019. The Louisiana TIG hosted a public webinar on January 8, 2020, and the public comment period for the Draft RP/EA #6 closed on January 21, 2020. The Draft RP/EA #6 evaluated four restoration project alternatives in accordance with the OPA and the NEPA. The Louisiana TIG considered the public comments received on the Draft RP/EA #6 which informed the Louisiana TIG's analyses and selection of three restoration projects for implementation in the Final RP/EA #6. A summary of the public comments received and the Trustees' responses to those comments are included in Chapter 7 of the Final RP/EA #6.

Overview of the Final RP/EA

The Final RP/EA is being released in accordance with the OPA, NRDA implementing regulations, and the NEPA. In the Final RP/EA #6, the Louisiana TIG selects the following preferred project alternatives in the Wetlands, Coastal, and Nearshore Habitats restoration type:

- West Grand Terre Beach Nourishment and Stabilization;
- Golden Triangle Marsh Creation; and
- Biloxi Marsh Living Shoreline.

The Louisiana TIG has examined the injuries assessed by the *Deepwater Horizon* Trustees and evaluated restoration alternatives to address the injuries. In the Final RP/EA #6, the Louisiana TIG presents to the public its plan for providing partial compensation for lost wetlands, coastal, and nearshore habitats. The selected projects are intended to continue the process of using restoration funding to restore and conserve wetlands, coastal, and nearshore habitats injured by the *Deepwater Horizon* oil spill. The total estimated cost of the selected projects is approximately $209 million. Additional restoration planning for the Louisiana Restoration Area will continue.

Administrative Record

The documents comprising the Administrative Record for the Final RP/EA #6 and FONSI can be viewed electronically at *https://www.doi.gov/deepwaterhorizon/adminrecord.*

Authority

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), its implementing NRDA regulations found at 15 CFR part 990, and the NEPA (42 U.S.C. 4321 *et seq.*).

Dated: March 31, 2020.

Benita Best-Wong,

Deputy Assistant Administrator, Office of Water.

[FR Doc. 2020–07264 Filed 4–9–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10007–84–OECA]

Memorandum Setting Forth Enforcement Discretion Regarding Self-Identification Requirement for Certain Manufacturers Subject to the TSCA Fees Rule; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: On March 24, 2020, the Assistant Administrator of the Office of Enforcement and Compliance Assurance signed a memorandum providing a ''no action assurance'' to three categories of manufacturers regarding the self-identification requirement of the Toxic Substances Control Act (TSCA) Fees Rule, consistent with planned revisions to the TSCA Fee Rule. The three categories of manufacturers are: (1) Importers of articles containing one of

the twenty high-priority substances; (2) producers of one of the twenty high-priority substances as a byproduct; and (3) producers or importers of one of the twenty high-priority substances as an impurity. The Office of Enforcement and Compliance Assurance is hereby providing public notice of this memorandum which can be found at *https://www.epa.gov/sites/production/files/2020-03/documents/no_action_assurance_regarding_self-identification_requirement_for_certain_manufacturers_subject_to_the_tsca_fees_rule_march_24_2020.pdf.pdf.*

DATES: The memorandum is in effect from March 24, 2020 until either (1) 11:59 p.m. ET, September 30, 2021, or (2) the effective date of a final rule addressing the proposed exemptions to manufacture definition of the TSCA Fees Rule, whichever occurs earlier.

FOR FURTHER INFORMATION CONTACT: Philip Milton, Waste and Chemical Enforcement Division (2249–A), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone: (202) 564–5029; fax: (202) 564–0010; email: *milton.philip@epa.gov.*

SUPPLEMENTARY INFORMATION: More information can be found at *https://www.epa.gov/tsca-fees/information-plan-reduce-tsca-fees-burden-and-no-action-assurance.*

Dated: April 7, 2020.

Gregory Sullivan,

Director, Waste and Chemical Enforcement Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 2020–07625 Filed 4–9–20; 8:45 am]

BILLING CODE 6560–50–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: Tuesday, April 14, 2020 at 10:00 a.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 Action to Address Urgent U.S. Under-Supply of Medical Supplies.

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 Monday, April 13, 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. 2020–07674 Filed 4–8–20; 11:15 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket Nos. 17–108, 17–287, 11–42; DA 20–331; FRS 16607]

Telecommunications; Common Carriers; Internet

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Wireline Competition Bureau (Bureau) of the Federal Communications Commission grants a 21-day extension of time for filing comments and reply comments on the Public Notice seeking to refresh the record in the *Restoring Internet Freedom* and *Lifeline* proceedings.

DATES: Comments are due on or before April 20, 2020, and reply comments are due on or before May 20, 2020.

ADDRESSES: You may submit comments, identified by WC Docket Nos. 17–108, 17–287, and 11–42, by any of the following methods:

- *Federal Communications Commission's Website: https://www.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.
- *People With Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Annick Banoun, Competition Policy Division, Wireline Competition Bureau, at (202) 418–1521 or *annick.banoun@fcc.gov.*

SUPPLEMENTARY INFORMATION: On February 19, 2020, the Bureau released a Public Notice seeking to refresh the record in the *Restoring Internet Freedom* and *Lifeline* proceedings in light of the D.C. Circuit's decision in *Mozilla Corp.* v. *FCC,* with filing deadlines of March 30, 2020 for comments and April 29, 2020 for reply comments. (85 FR 12555 (Mar. 3, 2020)) Among other things, the Public Notice sought to refresh the record on how the changes adopted in the *Restoring internet Freedom Order* might affect public safety.

On March 11, 2020, The Benton Institute for Broadband & Society, California Public Utilities Commission, County of Santa Clara, City of Los Angeles, Access Now, Center for Democracy and Technology, Common Cause, Electronic Frontier Foundation, INCOMPAS, National Hispanic Media Coalition, Next Century Cities, Open Technology Institute, and Public Knowledge (Requesters) filed a motion to extend the comment and reply comment deadlines by 30 days each, to April 29, 2020 and May 29, 2020, respectively. Requesters assert that, among other things, there is a ''critical need for an extension'' to enable state, county, and municipal governments to be able to respond adequately to the

issues raised in the Public Notice relating to how the Commission's action affects public safety. NASUCA expressed support for the Extension Request.

As set forth in section 1.46 of the Commission's rules, it is the policy of the Commission that extensions of time shall not be routinely granted. The deadlines stated in the Public Notice provided interested parties more than a month to submit comments, and an additional month for reply comments. Nevertheless, we find that Requesters have shown good cause for an extension of the comment cycle, and that the public interest will be served by extending the comment and reply deadlines. Requesters assert that staff, officials, and first responders who possess knowledge relevant to the public safety-related questions raised in the Public Notice are presently occupied with preparing for and conducting emergency responses to the COVID–19 public safety crisis. Under such circumstances, we agree that an extension of three weeks for each deadline is warranted. At the same time, we agree with Requesters that ''the Commission has a duty to conduct its remand proceedings in an expeditious manner,'' and we find that this consideration counsels for a shorter extension than the full 30 days requested.

These proceedings shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy*.
- During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

People With Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Accordingly, *it is ordered*, pursuant to sections 0.204, 0.291, and 1.46 of the Commission's rules, 47 CFR 0.204, 0.291, 1.46, that the Motion for Extension of Time filed by Requestors on March 11, 2020 is *granted* to the extent described herein.

It is also ordered that the date for filing comments on the Public Notice is *extended* to April 20, 2020, and the date for filing reply comments is *extended* to May 20, 2020.

Federal Communications Commission.

Daniel Kahn,

Associate Chief, Wireline Competition Bureau.

[FR Doc. 2020–07586 Filed 4–9–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL TRADE COMMISSION

[File No. 191 0177]

Össur Hf.; Analysis of Agreement Containing Consent Order 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 May 11, 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: ''Össur Hf.; File No. 191 0177'' 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: Emily Bowne (202–326–2552), 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 April 7, 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 May 11, 2020. Write ''Össur Hf.; File No. 191 0177'' 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.

Due to the public health emergency in response to the COVID–19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Össur Hf.; File No. 191 0177'' 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 this matter. 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 May 11, 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 from Össur Hf., Össur Americas Holdings, Inc., (collectively ''Össur'') and College Park Industries, Inc., (''College Park''), subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') designed to remedy the anticompetitive effects that would likely result from Össur's proposed acquisition of College Park. The proposed Decision and Order (''Order'') contained in the Consent Agreement requires College Park to divest its myoelectric elbow business to Hugh Steeper Ltd. (''Steeper'').

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 final the Consent Agreement.

Pursuant to a Stock Purchase Agreement dated July 19, 2019, Össur agreed to acquire College Park (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 FTC Act, as amended, 15 U.S.C. 45, by substantially lessening future competition between College Park and Össur in the development, manufacturing, marketing, distribution, and sale of myoelectric elbows. The proposed Consent Agreement would remedy the alleged violations by preserving the competition that otherwise would be lost in this market as a result of the proposed Acquisition.

The Parties

Headquartered in Reykjavik, Iceland, Össur Hf. is engaged in the

development, manufacture, sale, and distribution of upper and lower-limb prosthetic devices. Össur Hf. markets and sells its prosthetics throughout the United States through its subsidiary, Össur Americas Holdings, Inc., which is headquartered in Foothill Ranch, California. College Park, headquartered in Warren, Michigan, also is engaged in the development, manufacture, sale, and distribution of upper and lower-limb prosthetics.

The Relevant Product Market and Market Structure

The relevant product market in which to assess the competitive effects of the proposed acquisition is no broader than the development, manufacturing, marketing, distribution, and sale of myoelectric elbows. Myoelectric, or powered, elbows use electromyographic signals and battery-powered motors to control movement of the prosthetic. Myoelectric elbows fit directly on the residual limb and use electrical signals generated by muscles to move the motorized elbow componentry. Myoelectric elbows provide substantial functional advantages over mechanical elbows, such as being easier and more natural to control than mechanical elbows.

The relevant geographic area in which to assess the competitive effects of the Acquisition is the United States. The United States has unique regulatory and reimbursement requirements that distinguish it from other countries where myoelectric elbows are sold, and manufacturers require U.S. sales and clinical personnel to support their U.S. clinic customers.

The U.S. market for myoelectric elbows is highly concentrated. Respondent College Park is a leading supplier of myoelectric elbows and Respondent Össur is currently developing its own myoelectric elbow. The only other participants in the U.S. myoelectric elbow market are Otto Bock Healthcare North America and Fillauer LLC.

Effects of the Acqusition

Absent a divestiture, the Acquisition is likely to harm customers of myoelectric elbows in the United States. College Park is currently a leading manufacturer of myoelectric elbows in the United States. Össur is the largest prosthetic manufacturer in the United States that does not currently offer a myoelectric elbow, but it is developing a myoelectric elbow to enter the market. Absent the Acquisition, the highly concentrated myoelectric elbow market likely would benefit significantly from Össur's entry and Össur would compete directly for College Park's customers.

Entry

Entry into the myoelectric elbow market would not be timely, likely, or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the proposed Acquisition. *De novo* entry is unlikely to occur in a timely manner because the time required for product development and market adoption is lengthy, and the only passive and body-powered elbow manufacturers already sell myoelectric elbows.

The Consent Agreement

The proposed Order would remedy the competitive concerns raised by the proposed transaction by requiring Össur to divest to Steeper the worldwide College Park myoelectric elbow business. The divestiture package consists of the following assets and rights: all assets and rights to research, develop, manufacture, market, and sell the College Park myoelectric elbow products, including all related intellectual property and other confidential business information, manufacturing technology, and existing inventory. Steeper will also be hiring several key College Park employees who are essential to the divested business. Additionally, the Order requires that, at the request of Steeper, Össur must provide transitional assistance for up to fifteen months following the divestiture date (with an option to extend further with Commission approval). These services include logistical, administrative, and sales and marketing support. The Order also includes other standard terms designed to ensure the viability of the divested business. The provisions of the proposed Consent Agreement position Steeper to become an effective competitor in the market for myoelectric elbows in the United States.

Under the Order, College Park is required to divest its myoelectric elbow business no later than ten days from the close of its acquisition by Össur. If the Commission determines that Steeper is not an acceptable acquirer, or that the manner of the divestiture is not acceptable, the Order requires College Park to either unwind the sale of rights and assets to Steeper and then divest the assets to a Commission-approved acquirer within 180 days of the date the Order becomes final, or modify the divestiture to Steeper in the manner the Commission determines is necessary to satisfy the requirements of the Order.

The Order also requires a monitor to oversee Össur's compliance with the obligations set forth in the Order. If Össur does not fully comply with the divestiture and other requirements of the Order, the Commission may appoint a Divestiture Trustee to divest the myoelectric elbow assets and perform Össur's other obligations consistent with the Order. The Order also requires that Össur shall not acquire, without providing advance written notification to the Commission, any myoelectric prosthetic elbow manufacturer or product for a period of five years from the date the Order is issued.

The purpose of this analysis is to facilitate public comment on the Consent Agreement to aid the Commission in determining whether it should make the Consent Agreement final. This analysis is not an official interpretation of the proposed Consent Agreement and does not modify its terms in any way.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2020–07588 Filed 4–9–20; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meetings

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of five AHRQ subcommittee meetings.

SUMMARY: The subcommittees listed below are part of AHRQ's Health Services Research Initial Review Group Committee. Grant applications are to be reviewed and discussed at these meetings. Each subcommittee meeting will be closed to the public.

DATES: See below for dates of meetings:

1. *Health Care Research and Training (HCRT)*
   Date: May 20–22, 2020
2. *Health System and Value Research (HSVR)*
   Date: June 2–3, 2020
3. *Healthcare Information Technology Research (HITR)*
   Date: June 3–5, 2020
4. *Healthcare Effectiveness and Outcomes Research (HEOR)*
   Date: June 10–11, 2020
5. *Healthcare Safety and Quality Improvement Research (HSQR)*
   Date: June 9–11, 2020

ADDRESSES: Agency for Healthcare Research and Quality (Virtual Review), 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: (To obtain a roster of members, agenda or minutes of the non-confidential portions of the meetings.)

Jenny Griffith, Acting Committee Management Officer, Office of Extramural Research Education and Priority Populations, Agency for Healthcare Research and Quality (AHRQ), 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 427–1557.

SUPPLEMENTARY INFORMATION: In accordance with section 10 (a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), AHRQ announces meetings of the above-listed scientific peer review groups, which are subcommittees of AHRQ's Health Services Research Initial Review Group Committee. The subcommittee meetings will be closed to the public in accordance with the provisions set forth in 5 U.S.C. App. 2 section 10(d), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(6). The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Agenda items for these meetings are subject to change as priorities dictate.

Virginia L. Mackay-Smith,

Associate Director, AHRQ.

[FR Doc. 2020–07561 Filed 4–9–20; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; National Advisory Committee on the Sex Trafficking of Children and Youth in the United States (NAC) Recommendations and State Self-Assessment Survey (NEW)

AGENCY: Office on Trafficking in Persons; Administration for Children and Families; HHS.

ACTION: Request for public comment.

SUMMARY: The Office on Trafficking in Persons (OTIP), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to collect data for a new survey, the National Advisory Committee on the Sex Trafficking of Children and Youth in the United States (NAC) Recommendations and State Self-Assessment Survey.

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: The Preventing Sex Trafficking and Strengthening Families Act of 2014 mandated the NAC to develop a report describing how each state has implemented its recommendations to address sex trafficking in children and youth. The NAC proposes to administer a survey allowing states to assess their progress in implementing NAC recommendations. Submissions will allow states to document their efforts in the following sections: Multidisciplinary Response, Screening and Identification, Child Welfare, Service Provision, Housing, Law Enforcement and Prosecution, Judiciary, Demand Reduction, Prevention, Legislation and Regulation, Research and Data, and Funding. Each state will have the opportunity to provide a self-assessed tier ranking for each recommendation, a justification of their assessment, sources for their assessment, and the public or private nature of those sources.

Respondents: State Governors, Child Welfare Agencies, Local Law Enforcement, and Other Local Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents contributing for 50 States	Total number of responses per respondent	Average burden hours per response for individuals in States	Average burden hours per State response	Total burden hours per individual	Annual burden hours
NAC Recommendations and State Self-Assessment Survey	250	1	6.85	34.25	1,713	571

Estimated Total Annual Burden Hours: 571.

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: 42 U.S.C. 1314b.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–07554 Filed 4–9–20; 8:45 am]

BILLING CODE 4184–47–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Health Center Program

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of supplemental awards.

SUMMARY: HRSA provided supplemental funding to existing State and Regional Primary Care Association Cooperative Agreements (PCAs) to support enhanced

statewide HIV prevention efforts among health centers in the seven states that have substantial rural HIV burden: Alabama, Arkansas, Kentucky, Mississippi, Missouri, Oklahoma, and South Carolina (see Table 1).

FOR FURTHER INFORMATION CONTACT: Tracey Orloff, Strategic Partnerships Division Director in the Office of Quality Improvement, at (301) 443–3197 or *TOrloff@hrsa.gov.*

SUPPLEMENTARY INFORMATION:

Recipients of the Award: Seven award recipients, as listed in Table 1.

Amount of Non-Competitive Awards: $333,669 (with the option for $1,001,000 in additional fiscal year (FY) 2020 awards).

Period of Supplemental Funding: Initial funding is available for use March 1, 2020, through June 30, 2020, with additional funding in FY 2020 contingent on receipt of a cooperative agreement award under the FY 2020 PCA notice of funding opportunity (HRSA–20–021).

CFDA Number: 93.129.

Justification: The award recipients will use this funding to strengthen and build on current training and technical assistance activities in support of health centers' HIV prevention efforts. The funding will support efforts to (1) increase health center capacity to engage patients in HIV prevention and linkage to care services using evidence-based strategies; (2) expand availability and support for the use of pre-exposure prophylaxis (PrEP) in health centers, including supporting health centers with accessing PrEP donation programs; (3) develop new and strengthened partnerships with key organizations to educate primary care physicians and health center staff in providing the full range of culturally competent and evidence-based HIV prevention services, with a focus on PrEP; and (4) enhance health center capacity to increase awareness of and reduce social stigma that persists as a barrier to care for those living with, or who are at risk for, HIV in the communities served.

TABLE 1—AWARD RECIPIENTS

Grant No.	Name
U58CS06865	Alabama Primary Health Care Association, Inc.
U58CS06851	Community Health Centers of Arkansas.
U58CS06811	Kentucky Primary Care Association, Inc.
U58CS06839	Mississippi Primary Health Care Association, Inc.
U58CS06814	Missouri Coalition for Primary Health Care.
U58CS06840	Oklahoma Community Health Center, Inc.
U58CS06828	South Carolina Primary Health Care Association.

(Authority: Public Health Service Act, Section 330(l) (42 U.S.C. 254b(l)))

Thomas J. Engels,

Administrator.

[FR Doc. 2020–07566 Filed 4–9–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–0324]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before June 9, 2020.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990–0324–60D, and project title for reference, to Sherrette Funn, the Reports Clearance Officer, *Sherrette.funn@hhs.gov,* or call 202–795–7714.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Report of Dental Examination of Applicants to the Commissioned Corps of U.S. Public Health Service.

Type of Collection: Reinstatement with changes.

OMB No. 0990–0324

Abstract: The Commissioned Corps of the U.S. Public Health Service has a need for the information in order to assess the qualifications of each applicant and make a determination whether the applicant meets the requirements to receive a commission. The information is used to make determinations on candidates/applicants seeking appointment to the Corps to assess their medical suitability. The purpose is to evaluate the medical suitability of applicants on the basis of the Corps' medical accession standards and policy. The protected information is accessed by appropriate personnel and clinical reviewers. The form is not disclosed to external entities, other than for uses authorized by law.

Type of respondent: Applicants/Candidates to the Commissioned Corps of the U.S. Public Health Service.

ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
PHS–6355	1,000	1	1	1,000	1,000
Total	1,000	1	1	1,000	1,000

Dated: April 7, 2020.

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2020–07611 Filed 4–9–20; 8:45 am]

BILLING CODE 4150–49–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Office of Director, National Institutes of Health, Board of Scientific Counselors, May 15, 2020, 10:00 a.m. to 2:00 p.m., National Institutes of Health, 1 Center Drive, Building 1, Room 151, Bethesda, MD 20892, which was published in the **Federal Register** on February 28, 2020, 85 FR 12797.

This notice is amended to announce that the meeting format and time of meeting has changed. The meeting will now be held as a virtual meeting by WebEx and remains open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting.

Date: Friday, May 15, 2020.

Time: 10:00 a.m.–1:00 p.m., EST.

Agenda: The meeting will include a discussion of policies and procedures that apply to the regular review of NIH intramural scientists and their work. *https://nih.webex.com/nih/j.php?MTID=m7bfd2d92af588fc4c4ef247032a51184.*

Meeting Number: 297 101 067.

Password: Kg9RCx4beR3.

Join by video system: Dial *297101067@nih.webex.com.*

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone: 1–650–479–3208 Call-in number (US/Canada).

Access code: 297 101 067.

Contact Person: Margaret McBurney, Program Specialist Office of the Deputy Director for Intramural Research National Institutes of Health, 1 Center Drive, Room 160, Bethesda, MD 20892–0140, (301) 496–1921, *mmcburney@od.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available at: *http://sourcebook.od.nih.gov/*, where an agenda and any additional information for the meeting will be posted when available.

Dated: April 7, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–07621 Filed 4–9–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Minority Health and Health Disparities.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The meeting will be held as a virtual meeting and is open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

Name of Committee: National Advisory Council on Minority Health and Health Disparities.

Date: May 12, 2020.

Closed: May 12, 2020, 9:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Open: May 12, 2020, 1:00 p.m. to 4:00 p.m.

Agenda: Opening Remarks, Administrative Matters, Director's Report, Presentations, and Other Business of the Council.

Place: National Institutes of Health, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Joyce A. Hunter, Ph.D., Senior Advisor to the Director, OD, National Institute on Minority Health and Health Disparities, National Institutes of Health, 6707 Democracy Boulevard, Suite 800, Bethesda, Maryland 20892–5465, (301)402–1366, *hunterj@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: NIMHD: *https://www.nimhd.nih.gov/about/advisory-council/,* where an agenda and any additional information for the meeting will be posted when available.

Dated: April 7, 2020.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–07620 Filed 4–9–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Epidemiology and Surveillance in Cancer Research.

Date: May 12–13, 2020.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Cancer Institute Shady Grove Facility, 9069 Medical Center Drive, Room 7W102, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Shakeel Ahmad, Ph.D., Chief Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W102,

Rockville, MD 20850, 240–276–6442, *ahmads@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Technologies to Accelerate Cancer Research.

Date: May 15, 2020.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove Facility, 9069 Medical Center Drive, Room 7W608, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Nadeem Khan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, 9609 Medical Center Drive, Room 7W608, National Cancer Institute, NIH, Bethesda 20892–9745, 240–276–5856, *nadeem.khan@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Biospecimen Science Technologies for Cancer Research.

Date: May 18, 2020.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove Facility, 9069 Medical Center Drive, Room 7W608, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Nadeem Khan, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, 9609 Medical Center Drive, Room 7W608, National Cancer Institute, NIH, Bethesda 20892–9745, 240–276–5856, *nadeem.khan@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–1: NCI Clinical and Translational R21 and Omnibus R03 Review.

Date: May 28, 2020.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Dr., Room 7W108, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Clifford W. Schweinfest, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W108, Bethesda, MD 20892–8329, 240–276–6343, *schweinfestcw@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–2: NCI Clinical and Translational R21 and Omnibus R03 Review.

Date: June 4–5, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W264, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Ombretta Salvucci, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W264, Rockville 20850, 240–276–7286, *salvucco@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–7: Radiotherapy and Imaging.

Date: June 5, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, 7W640, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Saejeong J. Kim, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W640, Rockville 20850, 240–276–7684, *saejeong.kim@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–3: NCI Clinical and Translational R21 and Omnibus R03 Review.

Date: June 10–11, 2020.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, 9609 Medical Center Drive, 7W254 Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Eduardo Emilio Chufan, Ph.D., Scientific Review Officer, Research Technology & Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W254, Bethesda, MD 20892, 240–276–7975, *chufanee@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Innovative Molecular and Cellular Analysis Technologies.

Date: June 16–17, 2020.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, 7W246, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Jun Fang, Ph.D., Scientific Review Officer, Research Technology & Contract Review, Branch Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W246, Rockville, MD 20850, 240–276–5460, *jfang@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project II (P01).

Date: June 18–19, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W634, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Michael E. Lindquist, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, 9609 Medical Center Drive, 7W634, National Cancer Institute, NIH, Rockville, MD 20850, *mike.lindquist@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project (P01) I Review.

Date: June 18–19, 2020.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W120, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Majed M. Hamawy, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Dr., Rm 7W120, Bethesda, MD 20892, 240–276–6457, *mh101v@nih.Gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–5: NCI Clinical and Translational R21 and Omnibus R03 Review.

Date: June 30, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W238, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Jeffrey E. DeClue, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, 9609 Medical Center Drive, Room 7W238, National Cancer Institute, NIH, Bethesda, MD 20892–9750, 240–276–6371, *decluej@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Physical Sciences-Oncology Project.

Date: July 15, 2020.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W238 Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Jeffrey E. DeClue, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, 9609 Medical Center Drive, Room 7W238, National Cancer Institute, NIH, Bethesda, MD 20892–9750, 240–276–6371, *decluej@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Rural Cancer Care.

Date: July 16, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W264, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Reed A. Graves, Ph.D., Scientific Review Officer, 9609 Medical Center Drive, Room 7W264, Division of Extramural Activities, Research Technology and Contract Review Branch, National Cancer Institute, NIH, Rockville, MD 20850, 240–276–6384, *gravesr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer

Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 6, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–07547 Filed 4–9–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Circadian Dysfunction and Cardiovascular Disease Risk.

Date: May 11, 2020.

Time: 8:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH/NHLBI, 6705 Rockledge Drive, Bethesda, MD (Telephone Conference Call).

Contact Person: YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6705 Rockledge Drive, Room 207–P, Bethesda, MD 20892–7924, (301) 827–7942, *lismerin@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Institutional Training Grants.

Date: May 29, 2020.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6705 Rockledge Drive, Room 205–H, Bethesda, MD 20892, 301–827–7696, *Pintuccig@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 7, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–07619 Filed 4–9–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; Gabriella Miller Kids First.

Date: May 1, 2020.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700 B Rockledge Drive, Room 3185 Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Barbara J. Thomas, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 6700 B Rockledge Drive, Room 3185, Bethesda, MD 20892–9306, 301–402–8837, *barbara.thomas@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: April 6, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–07545 Filed 4–9–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Cancellation of Meeting

Notice is hereby given of the cancellation of the National Cancer Institute Council of Research Advocates, May 11, 2020, 9:30 a.m. to May 11, 2020, 4:00 p.m., National Institutes of Health, Building 40, 40 Convent Drive, Bethesda, MD 20892 which was published in the **Federal Register** on March 3, 2020, 85 FR 12569.

This notice is being amended to announce that the meeting is cancelled due to scheduling difficulties and will not be rescheduled.

Dated: April 6, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–07552 Filed 4–9–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; y BRAIN Initiative; Data Archive, Integration, and Standards.

Date: April 10, 2020.

Time: 4:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6001 Executive Boulevard Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606,

Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: April 6, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–07551 Filed 4–9–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Alcohol Abuse and Alcoholism.

The meeting will be held as a virtual meeting and is open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

A portion of this meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism.

Date: May 12, 2020.

Closed: 12:30 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Open: 1:00 p.m. to 3:30 p.m.

Agenda: Presentations and other business of the Council.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Abraham P. Bautista, Ph.D., Executive Secretary, National Advisory Council Director, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700 B Rockledge Drive, Room 1458, MSC 6902 Bethesda, MD 20892, 301–443–9737, *bautista@mail.nih.gov.*

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism, National Cancer Advisory Board, and National Advisory Council on Drug Abuse.

Date: May 13, 2020.

Open: 11:30 a.m. to 3:00 p.m.

Agenda: Presentation of NIAAA, NCI, and NIDA Director's Update, Scientific Reports, and other topics within the scope of the Collaborative Research on Addiction at NIH (CRAN).

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Abraham P. Bautista, Ph.D., Executive Secretary, National Advisory Council Director, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700 B Rockledge Drive, Room 1458, MSC 6902, Bethesda, MD 20892, 301–443–9737, *bautista@mail.nih.gov.*

Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 7W444 Bethesda, MD 20892, 240–276–6340, *grayp@dea.nci.nih.gov.*

Susan Weiss, Ph.D., Director, Division of Extramural Research, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, NSC, Room 5274, 301–443–6487, *sweiss@nida.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.niaaa.nih.gov/AboutNIAAA/AdvisoryCouncil/Pages/default.aspx,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: April 6, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–07549 Filed 4–9–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0098]

Agency Information Collection Activities: NAFTA Regulations and Certificate of Origin

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than May 11, 2020) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in

the **Federal Register** (84 FR 68180) on December 13, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: NAFTA Regulations and Certificate of Origin.

OMB Number: 1651–0098.

Form Number: CBP Forms 434, 446, and 447.

Abstract: On December 17, 1992, the U.S., Mexico and Canada entered into an agreement, ''the North American Free Trade Agreement'' (NAFTA). The provisions of NAFTA were adopted by the U.S. with the enactment of the North American Free Trade Agreement Implementation Act. Public Law 103–182, 107 Stat. 2057 (1993).

CBP Form 434, *North American Free Trade* Agreement *Certificate of Origin,* is used to certify that a good being exported either from the United States into Canada or Mexico or from Canada or Mexico into the United States qualifies as an originating good for purposes of preferential tariff treatment under NAFTA. This form is completed by exporters and/or producers and furnished to CBP upon request. CBP Form 434 is provided for by 19 CFR 181.11, 181.22 and is accessible at: *https://www.cbp.gov/newsroom/publications/forms.*

CBP Form 446, *NAFTA Verification of Origin Questionnaire,* is a questionnaire that CBP personnel use to gather sufficient information from exporters and/or producers to determine whether goods imported into the United States qualify as originating goods for the purposes of preferential tariff treatment under NAFTA as stated on the Certificate of Origin pertaining to the good. CBP Form 446 is provided for by 19 CFR 181.72 and is accessible at: *https://www.cbp.gov/newsroom/publications/forms.*

CBP Form 447, *North American Free Trade Agreement Motor Vehicle Averaging Election,* is used to gather information required by 19 CFR 181 Appendix § 11(2). This form is provided to CBP when a manufacturer chooses to average motor vehicles for the purpose of obtaining NAFTA preference. CBP Form 447 is accessible at: *https://www.cbp.gov/newsroom/publications/forms.*

Current Actions: This submission is being made to extend the expiration dates for CBP Forms 434, 446, and 447 with no change to the estimated burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Form 434, NAFTA Certificate of Origin

Estimated Number of Respondents: 40,000.

Estimated Number of Responses per Respondent: 3.

Estimated Total Number of Responses: 120,000.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 240,000.

Form 446, NAFTA Questionnaire

Estimated Number of Respondents: 400.

Estimated Number of Responses per Respondent: 1.

Estimated Total Number of Responses: 400.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 800.

Form 447, NAFTA Motor Vehicle Averaging Election

Estimated Number of Respondents: 11.

Estimated Number of Responses per Respondent: 1.28.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 14.

Dated: April 6, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2020–07515 Filed 4–9–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0103]

Agency Information Collection Activities: Passenger List/Crew List

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than May 11, 2020) to be ssured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 67749) on December 11, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection:

Title: Passenger List/Crew List.
OMB Number: 1651–0103.
Form Number: CBP Form I–418.
Current Actions: CBP proposes to extend the expiration date of this information collection. There is no change to the estimated burden hours or to the information collected.
Type of Review: Extension (without change).
Abstract: CBP Form I–418 is prescribed by CBP, for use by masters, owners, or agents of vessels in complying with Sections 231 and 251 of the Immigration and Nationality Act (INA). This form is filled out upon arrival of any person by commercial vessel at any port within the United States from any place outside the United States. The master or commanding officer of the vessel is responsible for providing CBP officers at the port of arrival with lists or manifests of the persons on board such conveyances. CBP is in the process of amending its regulations to allow for the electronic submission of the data elements required on CBP Form I–418. This form is provided for in 8 CFR 251.1 and 251.3. A copy of CBP Form I–418 can be found at *https://www.cbp.gov/newsroom/publications/forms?title=i-418&=Apply.*
Affected Public: Businesses.
Estimated Number of Respondents: 77,935.
Estimated Number of Responses per Respondent: 1.
Estimated Time per Respondent: 1 hour.
Estimated Number of Total Annual Responses: 77,935.
Estimated Total Annual Hours: 77,935.

Dated: April 6, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2020–07514 Filed 4–9–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0027]

Agency Information Collection Activities: Record of Vessel Foreign Repair or Equipment Purchase

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than May 11, 2020) to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *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.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 68181) on December 13, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Record of Vessel Foreign Repair or Equipment Purchase.
OMB Number: 1651–0027.
Form Number: CBP Form 226.
Abstract: 19 U.S.C. 1466(a) provides for a 50 percent *ad valorem* duty

assessed on a vessel master or owner for any repairs, purchases, or expenses incurred in a foreign country by a commercial vessel documented under the laws of the United States. CBP Form 226, Record of Vessel Foreign Repair or Equipment Purchase, is used by the master or owner of a vessel to declare and file entry on equipment, repairs, parts, or materials purchased for the vessel in a foreign country. This information enables CBP to assess duties on these foreign repairs, parts, or materials. CBP Form 226 is provided for by 19 CFR 4.7 and 4.14 and is accessible at: *https://www.cbp.gov/document/forms/form-226-record-vessel-foreign-repair-or-equipment-purchase.*

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to the information collected on Form 226.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondent: 11.

Estimated Number of Total Annual Responses: 1,100.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 2,200.

Dated: April 6, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2020–07518 Filed 4–9–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0018]

Agency Information Collection Activities: Ship's Stores Declaration

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than May 11, 2020) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 67749) on December 11, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Ship's Stores Declaration.

OMB Number: 1651–0018.

Form Number: CBP Form 1303.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours. There is no change to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: Ship's Stores Declaration, CBP Form 1303, is used by the carriers to declare articles to be retained on board the vessel, such as sea stores, ship's stores (*e.g.* alcohol and tobacco products), controlled narcotic drugs or bunker fuel in a format that can be readily audited and checked by CBP. This form collects information about the ship, the ports of arrival and departure, and the articles on the ship. Ship's Stores Declaration, CBP Form 1303, is provided for by 19 CFR 4.7, 4.7a, 4.81, 4.85 and 4.87 and is accessible at: *https://www.cbp.gov/newsroom/publications/forms?title=1303&=Apply.*

Estimated Number of Respondents: 8,000.

Estimated Number of Responses per Respondent: 13.

Estimated Number of Total Annual Responses: 104,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 26,000.

Dated: April 6, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch. U.S. Customs and Border Protection.

[FR Doc. 2020–07519 Filed 4–9–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0002]

Agency Information Collection Activities: General Declaration

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than May 11, 2020) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 70561) on December 23, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: General Declaration (Outward/Inward) Agriculture, Customs, Immigration, and Public Health.

OMB Number: 1651–0002.

Form Number: Form 7507.

Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours. There is no change to the information collected or CBP Form 7507.

Type of Review: Extension (without change).

Abstract: As provided in 19 CFR 122.43, an aircraft commander or agent must file CBP Form 7507, *General Declaration (Outward/Inward) Agriculture, Customs, Immigration, and Public Health* at the time of arrival for all aircraft required to enter pursuant to 19 CFR 122.41. As provided in 19 CFR 122.72 and 122.73, an aircraft commander or agent must file this form at the departure airport for all aircraft departing to a foreign area with commercial airport cargo. As provided in 19 CFR 122.144, this form must be presented to CBP for signature by the inspecting officer in the U.S. Virgin Islands for flights from the U.S. Virgin Islands to the U.S. This form is used to document clearance and inspections by appropriate regulatory agency staffs. CBP Form 7507 collects information about the flight routing, the number of passengers embarking and disembarking, the number of crew members, a declaration of health for the persons on board, and details about disinfecting and sanitizing treatments during the flight. This form also includes a declaration attesting to the accuracy, completeness, and truthfulness of all statements contained in the form and in any document attached to the form.

CBP Form 7507 is authorized by 42 U.S.C 268, 19 U.S.C. 1431, 1433, and 1644a; and provided for by 19 CFR 122.43, 122.52, 122.54, 122.73, 122.144; and 42 CFR 71.21 and 71.32. This form is accessible at: *https://www.cbp.gov/newsroom/publications/forms?title=7507&=Apply.*

Affected Public: Businesses.

Estimated Number of Respondents: 500.

Estimated Number of Responses per Respondent: 2,644.

Estimated Number of Total Annual Responses: 1,322,000.

Estimated Time per Response: 5 minutes.

Estimated Annual Burden Hours: 110,123.

Dated: April 6, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2020–07520 Filed 4–9–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0086]

Agency Information Collection Activities: Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than May 11, 2020) to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *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.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 67750) on December 11, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers.

OMB Number: 1651–0086.

Form Number: CBP Form 7401.

Abstract: This collection of information is used by CBP to make distributions of funds pursuant to the Continued Dumping and Subsidy Offset Act of 2000 (CDSOA). 19 U.S.C. 1675c (repealed by the Deficit Reduction Act of 2005, Public Law 109–171, § 7601 (Feb. 8, 2006)). This Act prescribes the administrative procedures under which antidumping and countervailing duties assessed on imported products are distributed to affected domestic producers that petitioned for or supported the issuance of the order under which the duties were assessed. The amount of any distribution afforded to these domestic producers is based on certain qualifying expenditures that they incur after the issuance of the order or finding up to the effective date of the CDSOA's repeal, October 1, 2007. This distribution is known as the continued dumping and subsidy offset. The claims process for the CDSOA program is provided for in 19 CFR 159.61 and 159.63.

A notice is published in the **Federal Register** in June of each year in order to inform claimants that they can make claims under the CDSOA. In order to make a claim under the CDSOA, CBP Form 7401 may be used. This form is accessible at and can be submitted electronically through *https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=8776895.*

Current Actions: This submission is being made to extend the expiration date and to revise the burden hours as a result of updated estimates of the number of CDSOA claims prepared on an annual basis. There are no changes to the information collected.

Type of Review: Extension (with a change to the burden hours).

Affected Public: Businesses.

Estimated Number of Respondents: 1,200.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Responses: 1,400.

Estimated Time per Response: 60 minutes.

Estimated Total Annual Burden Hours: 1,400.

Dated: April 6, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2020–07516 Filed 4–9–20; 8:45 am]

BILLING CODE;P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0031]

Agency Information Collection Activities: Foreign Assembler's Declaration

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and must be submitted (no later than May 11, 2020) to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *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.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other

Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (84 FR 67751) on December 11, 2019, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Foreign Assembler's Declaration (with Endorsement by Importer).

OMB Number: 1651–0031.

Abstract: In accordance with 19 CFR 10.24, a Foreign Assembler's Declaration must be made in connection with the entry of assembled articles under subheading 9802.00.80, Harmonized Tariff Schedule of the United States (HTSUS). This declaration includes information such as the quantity, value and description of the imported merchandise. The declaration is made by the person who performed the assembly operations abroad and it includes an endorsement by the importer. The Foreign Assembler's Declaration is used by CBP to determine whether the operations performed are within the purview of subheading 9802.00.80, HTSUS and therefore eligible for preferential tariff treatment.

19 CFR 10.24(d) requires that the importer/assembler maintain records for 5 years from the date of the related entry and that they make these records readily available to CBP for audit, inspection, copying, and reproduction. Instructions for complying with this regulation are posted on the CBP.gov website at: *http://www.cbp.gov/trade/trade-community/outreach-programs/trade-agreements/nafta/repairs-alterations/subchpt-9802.*

Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Foreign Assemblers Declaration (Reporting)

Estimated Number of Respondents: 2,730.

Estimated Number of Responses/Recordkeeping per Respondent: 128.

Estimated Total Number of Responses: 349,440.

Estimated Time per Response/Recordkeeping: 50 minutes.

Estimated Total Annual Burden Hours: 291,083.

Foreign Assemblers Declaration (Record Keeping)

Estimated Number of Respondents: 2,730.

Estimated Number of Responses/Recordkeeping per Respondent: 128.

Estimated Total Number of Responses: 349,440.

Estimated Time per Response/Recordkeeping: 5 minutes.

Estimated Total Annual Burden Hours: 29,004.

Dated: April 6, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2020–07517 Filed 4–9–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2019–0018]

RIN 1660–ZA23

Hazard Mitigation Assistance: Building Resilient Infrastructure and Communities

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice, Request for Comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) is accepting comments on the *Building Resilient Infrastructure and Communities Policy.* This policy describes a new program authorized by recent legislation that allows FEMA to set aside 6 percent of estimated disaster expenses for each major disaster to fund a mitigation grant program to assist States, territories, Tribes, and local governments. The new program would supersede the existing Pre-Disaster Mitigation grant program and would promote a national culture of preparedness through encouraging investments to protect communities and infrastructure and strengthening national mitigation capabilities to foster resilience.

DATES: Comments must be received by May 11, 2020.

ADDRESSES: Comments must be identified by docket ID FEMA–2019–0018 and may be submitted by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. Please note that this proposed policy is not a rulemaking and the Federal Rulemaking Portal is being utilized only as a mechanism for receiving comments.

Mail: Regulatory Affairs Division, Office of Chief Counsel, Federal Emergency Management Agency, 8 NE Ste. 1007, 500 C Street SW, Washington, DC 20472–3100.

FOR FURTHER INFORMATION CONTACT: Ryan Janda, Federal Emergency Management Agency, 400 C Street SW, Washington, DC 20472, 202–646–2659, *Ryan.Janda@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Instructions: All submissions received must include the agency name and docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy and Security Notice that is available via a link on the homepage of *www.regulations.gov.*

You may submit your comments and material by the methods specified in the **ADDRESSES** section. Please submit your comments and any supporting material by only one means to avoid the receipt and review of duplicate submissions.

Docket: The proposed guidance is available in docket ID FEMA–2019–0018. For access to the docket to read background documents or comments received, go to the Federal eRulemaking

Portal at *http://www.regulations.gov* and search for the docket ID. Submitted comments may also be inspected at FEMA, Office of Chief Counsel, 8 NE, 500 C Street, SW, Washington, DC 20472.

II. Background

On October 5, 2018, the President signed into law the Disaster Recovery Reform Act [1] (DRRA). The DRRA contains approximately 50 provisions which acknowledge the shared responsibility for disaster response and recovery, aim to reduce the complexity of FEMA, and build the nation's capacity for the next catastrophic event. Some of the highlights from the DRRA include additional authority to reduce risk from future disasters after a fire, increase State capacity to manage disaster recovery, provide greater flexibility to survivors with disabilities, and retain skilled response and recovery personnel.

This policy addresses Section 1234 of the DRRA, titled ''National Public Infrastructure Pre-Disaster Hazard Mitigation,'' which amended section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. 5121 *et seq.* Section 1234 of the DRRA authorizes FEMA to set aside 6 percent of estimated disaster expenses for each major disaster to fund a new grant program, called Building Resilient Infrastructure and Communities (BRIC). The new program will supersede the existing Pre-Disaster Mitigation (PDM) program authorized under Section 203 [2] and will promote a national culture of preparedness through encouraging investments to protect our communities and infrastructure and strengthening national mitigation capabilities to foster resilience. The following principles will guide the BRIC program:

- Support communities through capability and capacity building
- Encourage and enable innovation
- Promote partnerships
- Enable large projects
- Maintain flexibility
- Provide consistency

The BRIC Policy provides a consistent framework and standing requirements for the program. FEMA will calculate the 6 percent set aside within 180 days after each major disaster and set aside that amount from the Disaster Relief Fund into the National Public Infrastructure Pre-Disaster Mitigation Fund.[3] The total amount will vary year to year based on the estimated amount of disaster assistance for each major Presidentially-declared disaster, and the number of Presidentially-declared disasters in each year. On an annual basis, FEMA will assess the amount available in the National Public Infrastructure Pre-Disaster Mitigation Fund and determine what portion of it will be available for the next year's grant cycle. FEMA will announce this determination in the annual Notice of Funding Opportunity (NOFO) [4] which it will post for a period of time on its website prior to opening the application period.

The Stafford Act limits eligible applicants to States and territories that have had a major disaster declaration in the 7 years prior to the annual application period start date, and federally-recognized Tribes entirely or partially located in a State that has had a major disaster declaration in the 7 years prior to the application period start date.[5] Subapplicants include local governments and non-federally recognized Tribes,[6] who may apply to States and territories for funding. (Note that federally-recognized Tribes may apply as either applicants or subapplicants).[7]

In addition to determining annually the total amount to be made available for BRIC, FEMA may allocate from that amount to eligible States and territorial applicants, with a specific set-aside for Tribes, an allocation for mitigation capability- and capacity-building activities and mitigation projects, and make the remainder of the funding available competitively for mitigation projects. FEMA may also make a portion of funding available for management costs (costs to manage the grant) and non-financial technical assistance to all eligible entities. Funding would generally be subject to a Federal cost share of up to 75 percent, and up to 90 percent for small and impoverished communities.[8]

Each year, FEMA will provide stakeholders with more detailed information about the program requirements through an annual Notice of Funding Opportunity (NOFO) process.[9] The NOFO will address a variety of topics, including but not limited to:

- Important application dates
- Specific funding amounts and allowances
- Provision of technical assistance
- Codes and standards activities
- Sample project types
- Application review process, including competition structure and merit criteria
- Method for determining cost-effectiveness
- Award administration information
- Additional requirements and guidelines

The proposed guidance does not have the force or effect of law.

FEMA seeks comment on the proposed guidance, which is available online at *http://www.regulations.gov* in docket ID FEMA–2019–0018. Based on the comments received, FEMA may make appropriate revisions to the proposed guidance. When or if FEMA issues a final policy, FEMA will publish a notice of availability in the **Federal Register** and make the final guidance available at *http://www.regulations.gov.* The final guidance will not have the force and effect of law and is not meant to bind the public in any way. The guidance document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

Authority: Sec. 1234, Pub. L. 115–254, 132 Stat. 3438.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–07609 Filed 4–9–20; 8:45 am]

BILLING CODE 9111–47–P

[1] Pubic Law 115–254, 132 Stat. 3438.

[2] In August 2019, FEMA posted a PDM fact sheet and notice of funding opportunity (NOFO) to its website, available at *https://www.fema.gov/media-library/assets/documents/182171.* The NOFO clarified that fiscal year (FY) 2019 would be the last year that FEMA offered the PDM program, and that it would supersede that program by BRIC in FY 2020. As both the fact sheet and the NOFO explain, the 2015 Hazard Mitigation Assistance (HMA) Guidance applies to the FY 2019 PDM grant program application cycle.

[3] 42 U.S.C. 5133(i).

[4] 2 CFR 200.203 sets forth the requirement to post a NOFO and the required contents of a NOFO.

[5] 42 U.S.C. 5133(g).

[6] 42 U.S.C. 5122(8).

[7] 42 U.S.C. 5123.

[8] 42 U.S.C. 5133(h).

[9] 2 CFR 200.203.

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0075]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Affidavit of Support Under Section 213A of the Act

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and

Immigration Services (USCIS) will be submitting 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. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until May 11, 2020.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0075 in the body of the letter, the agency name and Docket ID USCIS–2007–0029. Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0029.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Reasons for Changes

An Affidavit of Support Under Section 213A of the INA (Affidavit) is required for most family-sponsored immigrants and some employment-based immigrants. See INA section 212(a)(4) and INA section 213A. By executing an Affidavit, a sponsor is creating a contract between the sponsor and the U.S. Government. Under the contract, the sponsor agrees that he or she will: (1) Provide support to the sponsored immigrant at an annual income of, in most cases, not less than 125 percent of the Federal poverty line during the period the support obligation is in effect; (2) to be jointly and severally liable for any reimbursement obligation incurred as a result of the sponsored immigrant receiving any means-tested public benefits during the period the obligation is in effect; and (3) to submit to the jurisdiction of any Federal or State court for the purpose of enforcing any of the support obligation under INA section 213A.

On May 23, 2019, President Trump issued the Memorandum on Enforcing the Legal Responsibilities of Sponsors of Aliens (Presidential Memo). See *https://www.whitehouse.gov/presidential-actions/memorandum-enforcing-legal-responsibilities-sponsors-aliens.* The Presidential Memo states that a ''key priority of [the] Administration is restoring the rule of law by ensuring that existing immigration laws are enforced'' and emphasized that sponsors who pledge to financially support sponsored aliens are expected to fulfill their commitment under the law.

As part of this revision, and in furtherance of the Presidential Memo, USCIS has made changes to better inform sponsors and household members of their support obligations and better ensure the support obligations, as agreed to by completing and signing the Form I–864, Form I–864EZ, or Form I–864A, will be met.

Changes to the Form I–864 and Form I–864EZ include collection of bank account information from sponsors, information about previously submitted Affidavits, and optional submission of a credit report as evidence. Language throughout the forms was modified to ensure greater clarity regarding the sponsor's obligations. USCIS also added additional language under the 'Sponsor's Certification' section of the forms further outlining the sponsor's obligations and the consequences of submitting Form I–864 and Form I–864EZ.

Changes to Form I–864A include collection of bank account information from household members and optional submission of a credit report as evidence. USCIS also added additional language under the 'Sponsor's Certification' section, plus the 'Household Member's Contract, Statement, and Certification' section of the form further outlining the sponsor's and household member's obligations and the consequences of submitting Form I–864A. USCIS further added a separate interpreter and preparer section for the sponsor on Form I–864A.

USCIS will now also require that Form I–864, Form I–864EZ, and Form I–864A be notarized prior to submission to the agency.

USCIS has made changes to the Instructions for Form I–864, Form I–864EZ, and Form I–864A adding language to more thoroughly explain the purpose of the forms, the sponsor's and household member's obligations as a result of the forms being accepted by USCIS as sufficient and the support obligations taking effect, and the consequences if the support obligations are not met. The requirements regarding which children immigrating based on adoption need to submit a Form I–864 executed on their behalf is now outlined in greater detail; which of these children can have a sponsor execute a Form I–864EZ on their behalf is also outlined in greater detail. USCIS also added a section to list and explain the eligibility requirements for being a sponsor. Language explaining the age limitations for spousal relationships involving a minor was also added.

The regulations governing the Affidavit are provided in 8 CFR 213a and will not be changed by this form change.

Comments

The information collection notice was previously published in the **Federal Register** on October 15, 2019, at 84 FR 55167, allowing for a 60-day public comment period. USCIS did receive five comment(s) in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0029 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget, and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Affidavit of Support Under Section 213A of the Act, Form I–864; Contract Between Sponsor and Household Member, Form I–864A; Affidavit of Support Under Section 213 of the Act, I–864EZ.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–864; Form I–864EZ; Form I–864A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* USCIS uses the data collected on Form I–864 to determine whether the sponsor has the means to support the sponsored alien under section 213A of the INA (8 U.S.C. 1183a) and for administrative purposes that better ensure the sponsor will meet the support obligations as agreed to by execution of the Form I–864 (including, but not limited to, reimbursing public benefit agencies for means-tested public benefits received by the sponsored immigrant while the support obligation was in effect). This form standardizes evaluation of whether the individual executing the Affidavit of Support meets the definition of a sponsor, can demonstrate the means to maintain income at the required income threshold, and otherwise meets the requirements of section 213A of the INA (8 U.S.C. 1183a), and ensures that basic information required to assess eligibility is provided by sponsors.

Form I–864A is a contract between the sponsor and the sponsor's household members. It is only used if the sponsor intends to use the income of his or her household members to reach the required 125 percent of the Federal poverty guidelines income threshold (or 100 percent when applicable). The contract holds these household members jointly and severally liable for the support of the sponsored immigrant(s) specified on the Form I–864A. USCIS uses the data collected on Form I–864A in conjunction with a Form I–864, to determine whether the sponsor can demonstrate the means to maintain income at the required income threshold under section 213A of the Immigration and Nationality Act, when the sponsor's income is combined with the household member(s)' income and for administrative purposes that better ensure the household member will meet the support obligations as agreed to by the household member in the Form I–864A (including, but not limited to, reimbursing public benefit agencies for means-tested public benefits received by the sponsored immigrant while the support obligation was still in effect).

USCIS uses Form I–864EZ in exactly the same way as Form I–864; however, USCIS collects less information from the sponsors as the Form I–864EZ is a shorter version of Form I–864, designed for execution by sponsors that meet certain criteria.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–864 is 446,313 and the estimated hour burden per response is 6.5 hours; the estimated total number of respondents for the information collection Form I–864A is 42,892 and the estimated hour burden per response is 2.25 hours; the estimated total number of respondents for the information collection Form I–864EZ is 114,860 and the estimated hour burden per response is 3 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 3,342,122 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $137,487,385.

Dated: April 6, 2020.

Samantha L Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2020–07543 Filed 4–9–20; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7027–N–09]

60-Day Notice of Proposed Information Collection: Manufactured Home Construction and Safety Standards Act Park Model RV Exemption Notice: OMB Control No. 2502–0616

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 9, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Manufactured Home Construction and Safety Standards Act Park Model RV Exemption Notice.

OMB Approval Number: 2502–0616.

OMB Expiration Date: May 31, 2020.

Type of Request: Extension of a currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: For recreational vehicles that are exempt from HUD regulation as manufactured homes, HUD requires certification with either the American National Standards Institute's (ANSI) standard for Park Model Recreational Vehicles (PMRV), A119.5–15 or the National Fire Protection Association's NFPA 1192, Standard on Recreational Vehicles, 2015 Edition. PMRVs built to ANSI A119.5–15 may exceed the RV exemption's 400 square foot threshold, a manufacturer must post notice in the home that the structure is only designed for recreational purposes and is not designed as a primary residence or for permanent occupancy.

The Recreation Vehicle Industry Association's (RVIA) current seal does not satisfy HUD's standard for the manufacturer's notice. HUD requirements provide specifics regarding the content and prominence of the notice and which requires the notice to be prominently displayed in the unit and delivered to the consumer before the sale transaction is complete, regardless of whether the transaction occurs online or in-person. PMRV manufacturers will satisfy this requirement with two printed sheets of paper per PMRV: One in the kitchen, and one delivered to the consumer before the transaction.

Respondents (*i.e.,* affected public): Business or other for-profit.

Estimated Number of Respondents: 22.

Estimated Number of Responses: 4,000 per annum.

Frequency of Response: Approx. 181.

Average Hours per Response: 20 seconds.

Total Estimated Burden: 22 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

The General Deputy Assistant Secretary for Housing, John L. Garvin, having reviewed and approved this document, is delegating the authority to electronically sign this document to submitter, Nacheshia Foxx, who is the Federal Register Liaison for HUD, for purposes of publication in the **Federal Register**.

Dated: April 6, 2020.

Nacheshia Foxx,

Senior Clearance Officer for the Office of Regulations Division, Office of the General Counsel.

[FR Doc. 2020–07542 Filed 4–9–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2020–N060; FXES11140800000–190–FF08EVEN00]

Draft Categorical Exclusion and Draft Los Alamos Conservation Plan for Cultivation Activities in Santa Barbara County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft conservation plan (plan), as well as the associated draft categorical exclusion (CatEx), for cultivation activities within and around Los Alamos in Santa Barbara County, California. The Service developed the plan in accordance with the Endangered Species Act to provide a streamlined mechanism for proponents engaged in activities associated with agricultural development, to meet statutory and regulatory requirements while promoting conservation of the Santa Barbara County distinct population segment of the California tiger salamander. The Service prepared the draft CatEx in accordance with the National Environmental Policy Act to evaluate the potential effects to the natural and human environment resulting from issuing permits under the plan. We invite public comment on these documents.

DATES: Written comments should be received on or before May 11, 2020.

ADDRESSES: *Obtaining Documents:* You may download a copy of the draft plan and draft CatEx at *http://www.fws.gov/ventura/,* or you may request copies of the documents by U.S. mail (below) or by phone (see **FOR FURTHER INFORMATION CONTACT**).

Submitting Written Comments: Please send us your written comments using one of the following methods:

- *U.S. mail:* Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.
- *Email: rachel_henry@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Rachel Henry, Fish and Wildlife Biologist, by phone at 805–677–3312, via the Federal Relay Service at 1–800–877–8339 for TTY assistance, or at the Ventura address (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft conservation plan (plan), as well as the associated draft categorical exclusion (CatEx), for cultivation activities within and around Los Alamos in Santa Barbara County California. We invite public comment on these documents.

Draft General Conservation Plan

The draft conservation plan was developed by the Service in accordance with section 10(a)(2)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The plan meets the issuance criteria as required by section 10(a)(2)(B) of the ESA for issuance of a section 10(a)(1)(B) incidental take permit (ITP). The Service developed the plan to provide a streamlined mechanism for proponents engaged in activities associated with the installation and operation of vineyards, crops, and other agricultural development, to meet statutory and regulatory requirements while promoting conservation of the Santa Barbara County distinct population segment (DPS) of the California tiger salamander (*Ambystoma californiense*). Permits issued under the plan would authorize incidental take of the Santa Barbara County DPS of the California tiger salamander for up to 20 years after the plan becomes effective.

Draft Categorical Exclusion

The Service prepared the draft CatEx in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) to evaluate the potential effects to the natural and human environment resulting from issuing permits under the plan.

Background

The Service listed the Santa Barbara County DPS of the California tiger salamander as endangered on September 21, 2000 (65 FR 57242).

Section 9 of the ESA and its implementing regulations prohibit the take of fish or wildlife species listed as endangered or threatened. ''Take'' is defined under the ESA to include the following activities: ''[T]o harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the ESA, we may issue permits to authorize incidental take of listed species. ''Incidental take'' is defined by the ESA as take that is incidental to, and not the purpose of, carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are in the Code of Federal Regulations (CFR) at 50 CFR 17.32 and 17.22, respectively. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species. The permittees would receive assurances under our ''No Surprises'' regulations ((50 CFR 17.22(b)(5) and 17.32(b)(5)) regarding conservation activities for the Santa Barbara County DPS of the California tiger salamander.

Proposed Action

The proposed action is approval of the plan and subsequent issuance of permits. The Service prepared the plan to provide a more efficient and standardized mechanism for proponents in activities associated with the installation and operation of vineyards, crops, and other agricultural development on non-Federal lands. The plan meets the permit issuance criteria as required by section 10(a)(2)(B) of the ESA and enables the construct of a programmatic permitting and conservation process to address a defined suite of proposed activities over a defined planning area. The proposed plan would allow private individuals, local and State agencies, and other non-Federal entities to meet the statutory and regulatory requirements of the ESA by applying for permits and complying with the requirements of the plan, including all applicable avoidance, minimization, and mitigation actions.

The draft CatEx provides the required NEPA documentation for the proposed Federal action, which is approval of a conservation plan and subsequent issuance of permits pursuant to section 10(a)(1)(B) of the ESA. The CatEx also provides baseline environmental information, and a discussion of impacts to the human and natural environment that may occur as a result of implementation of the proposed plan.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Stephen Henry,

Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.

[FR Doc. 2020–07574 Filed 4–9–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOS05000.L16100000.DQ0000. LXSS053C0000.20X]

Notice of Availability of the Record of Decision for the Uncompahgre Field Office Approved Resource Management Plan, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD) for the Approved Resource Management Plan (RMP) for the Uncompahgre Field Office located in southwestern Colorado, in Montrose, Delta, Gunnison, Ouray, San Miguel and Mesa counties. The Colorado State Director signed the ROD on April 2, 2020. The ROD makes the Approved RMP effective immediately.

ADDRESSES: Copies of the ROD/Approved RMP are available upon request from the Uncompahgre Field Office, Bureau of Land Management, 2465 South Townsend Avenue, Montrose, CO 81401 or via the internet at *https://go.usa.gov/xnpgD.* Copies of the ROD/Approved RMP are available for public inspection by appointment at the Uncompahgre Field Office, Montrose, CO, and the BLM Colorado State Office, 2850 Youngfield St, Lakewood, CO 80215.

FOR FURTHER INFORMATION CONTACT: Angela LoSasso, Planning and Environmental Coordinator, telephone 970–240–5300; email *uformp@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Ms. LoSasso during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Uncompahgre Approved RMP replaces the 1985 San Juan/San Miguel RMP, as amended; and the 1989 Uncompahgre Basin RMP, as amended. The BLM developed the Uncompahgre Field Office RMP in collaboration with 18 cooperating agencies. The BLM began engaging with the public and its cooperating agencies on the RMP revision in 2010 and made the Draft RMP/Draft EIS available for public review and comment in 2016; the BLM made the Proposed RMP/Final EIS available to the public on June 28, 2019. The BLM received 13 protest letters from parties with standing during the ensuing protest period, and the BLM Director resolved those protests. The Colorado Governor submitted a letter identifying certain concerns related to the consistency of the Proposed RMP with State plans. After a thorough review, the BLM determined that the Proposed RMP is consistent with existing State plans; however, as a result of the Governor's comments, the BLM adopted a new controlled surface use stipulation for fluid mineral leasing. Its purpose is to ensure the function and suitability of big game winter range, migration and production areas. The BLM also modified a stipulation to enhance the Gunnison Sage-Grouse habitat protection. The Approved RMP describes landscape-level management actions and allowable uses for resources, resource uses and special designations within the Uncompahgre Planning Area. The Planning Area

includes approximately 3.1 million acres of public land managed by the BLM Uncompahgre Field Office, U.S. Forest Service (portions of the Grand Mesa, Uncompahgre and Gunnison National Forest), National Park Service (Black Canyon of the Gunnison National Park and portions of Curecanti National Recreation Area), U.S. Bureau of Reclamation, State of Colorado (including Ridgway, Crawford, and Paonia State Parks), and local and private lands. The ROD/Approved RMP makes decisions for the approximately 675,800 acres of BLM surface lands and approximately 971,220 acres of Federal mineral estate, including split estate, within the Planning Area. Two BLM National Conservation Areas are managed under separate RMPs. The alternative selected as the Approved RMP is a slightly modified version of Alternative E, as described in the Proposed RMP. It provides for a balanced combination of goals, objectives, allowable uses and management actions. The Approved RMP identifies comprehensive long-range decisions for the management and use of resources on BLM-administered public lands, focusing on the principles of multiple use and sustained yield set forth in the Federal Land Policy and Management Act of 1976.

Authority: 40 CFR 1506.6.

Jamie E. Connell,

Colorado State Director.

[FR Doc. 2020–07316 Filed 4–9–20; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMA00000 L51010000.ER0000 LVRWG19G1360 19XL5017AP; NMNM 136976]

Notice of Availability of the Final Environmental Impact Statement and Proposed Land Use Plan Amendment for the Borderlands Wind Project in Catron County, New Mexico

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for the proposed Borderlands Wind Project (Project) and proposed Socorro Field Office Resource Management Plan Amendment (RMPA) for the BLM Socorro Field Office, and by this Notice is announcing its availability.

DATES: This Notice initiates the 30-day protest period for a proposed plan amendment. Protests may be submitted in writing until May 11, 2020.

ADDRESSES: All protests must be submitted in writing and mailed to one of the following addresses:

Mail: Director (210), Attn: Protest Coordinator, P.O. Box 261117, Lakewood, CO 80226; or *Overnight Delivery:* Director (210), Attn: Protest Coordinator, 2850 Youngfield Street, Lakewood, CO 80215.

You may submit protests electronically through the BLM ePlanning project website: *https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=renderDefaultPlanOrProjectSite&projectId=116245&dctmId=0b0003e88126486a* and at 43 CFR 1610.5–2. Protests submitted electronically by any means other than the ePlanning project website protest section will be invalid unless a protest is also submitted in hard copy. Protests submitted by fax will also be invalid unless also submitted either through ePlanning project website protest section or in hard copy. The Final EIS is available on line on the ePlanning website at: *https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=renderDefaultPlanOrProjectSite&projectId=116245&dctmId=0b0003e88126486a.* Hard copies are available for viewing at the BLM Socorro field office and the BLM New Mexico State Office in Santa Fe.

FOR FURTHER INFORMATION CONTACT: Virginia Alguire, BLM Socorro Field Office, 901 S Hwy 85, Socorro, New Mexico 87801; phone 575–838–1290, or email to *valguire@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) at 1–800–877–8339 to contact Ms. Alguire during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Pursuant to BLM's planning regulations at 43 CFR 1610.5–2, any person who participated in the planning process for this Proposed RMP and Integrated RMP and has an interest which is or may be adversely affected by the planning decisions may protest approval of the planning decisions contained therein.

The regulations specify the required elements of your protest. Take care to document all relevant facts. As much as possible, reference or cite the planning documents or available planning records (*e.g.* meeting minutes or summaries, correspondence, etc.).

Instructions for filing a protest with the Director of the BLM regarding the Final EIS/RMPA may be found online at *https://www.blm.gov/programs/planning-and-nepa/public-participation/filing-a-plan-protest* and at 43 CFR 1610.5–2. All protests must be in writing and mailed to the appropriate address, as set forth in the **ADDRESSES** section.

Borderlands Wind, LLC, submitted an application to the BLM requesting authorization to construct, operate, maintain, and terminate an up-to-100 megawatt commercial wind energy generation facility, the Borderlands Wind Project (NMNM136976), in Catron County, New Mexico, within a boundary that encompasses land managed by the BLM, the New Mexico State Land Office, and private landowners. The project would be located south of U.S. Route 60 in Catron County near Quemado, New Mexico, and the Arizona–New Mexico border. Authorization of this proposal requires amendments to the 2010 Socorro Field Office RMP to modify the visual resource management class in the project area and to modify a right-of-way avoidance area.

The Final EIS analyzed the direct, indirect, and cumulative environmental impacts of the Proposed Action, Alternative 1 (optimize the proposed wind facility components in order to minimize potential environmental impacts), Alternative 2 (change in the turbine generation types), and the No Action Alternative. Alternatives 1 and 2 would be constructed, operated, and maintained with the same project area. The Proposed Action and Alternative 1 would construct 40 turbines. However, because of the difference in the types of turbines, Alternative 2, the BLM Preferred Alternative, would only construct 34 turbines instead of 40 turbines within the same area as Alternative 1. The No Action Alternative would be a continuation of existing conditions.

A Notice of Intent to prepare an EIS for the proposed Borderlands Wind Project was published in the **Federal Register** on November 9, 2018 (83 FR 56097). The public scoping period closed on December 10, 2018. The BLM held one public scoping meeting on November 14, 2018. The BLM received 51 public scoping comment submission during the 45-day scoping period. The

scoping comments focused on wildlife; visual and cultural resources; light pollution, human health, local economic benefits; and property values.

A Notice of Availability to publish the Draft EIS and RMP Amendment for the proposed Borderlands Wind Project was published in the **Federal Register** on August 9, 2019 (84 FR 39366). The BLM held one public comment meeting. The public comment period closed November 7, 2019. The BLM received 39 letters/comment forms/emails and 247 individual comments during the 90-day public comment period. The comments focused on effects to sensitive wildlife species specifically avian and bats, change to visual resource management class as a result of the impacts to visual resources and change to the existing rural landscape character; groundwater level changes during construction, lack of benefit to the local area, and decreased property value concerns. Comments on the Draft EIS and RMP Amendment were considered and incorporated as appropriate into the Final EIS and Proposed RMP Amendment. Public comments did not result in the addition of substantive revisions to the Draft EIS and RMP Amendment that were published in August 2019. Responses to all comments are in Appendix H of the Final EIS.

The BLM has used and coordinated the NEPA scoping and comment process to help fulfill the public involvement requirements under the National Historic Preservation Act (NHPA) (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3.) The information about historic and cultural resources within the area potentially affected by the proposed project has assisted the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and the NHPA.

The BLM has consulted, and will continue to consult, with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts to Indian trust assets and potential impacts to cultural resources have been analyzed in the Final EIS.

Before including your address, phone number, email address, or other personal identifying information in your protest, be advised that your entire protest—including your personal information—may be made publicly available at any time. While you can ask us in your protest to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

The BLM Director will make every attempt to promptly render a decision on each protest. The decision will be in writing and will be sent to the protesting party by certified mail, return receipt requested. The decision of the BLM Director shall be the final decision of the Department of the Interior on each protest. Responses to protest issues will be compiled and formalized in a Director's Protest Resolution Report made available following issuance of the decisions.

Authority: 40 CFR 1506.6, 40 CFR 1506.10.

Timothy R. Spisak,

BLM New Mexico State Director.

[FR Doc. 2020–07533 Filed 4–9–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–SERO–CAHA; PPWONRADE2, PMP00EI05.YP0000]

Notice of Intent To Prepare an Environmental Impact Statement for a Sediment Management Framework, Cape Hatteras National Seashore Recreational Area, Dare and Hyde Counties, North Carolina

AGENCY: National Park Service, Interior.

ACTION: Notice of intent.

SUMMARY: The National Park Service (NPS) is preparing an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) for a Sediment Management Framework (framework) at the Cape Hatteras National Seashore (the Seashore). The framework will include certain sediment management activities implemented by the Seashore and by local jurisdictions, state agencies, and other federal agencies.

DATES: This notice initiates the public scoping process. The public scoping comment period will conclude 30 days following the date this Notice of Intent published in the **Federal Register**. All comments must be postmarked or transmitted by this date. Public open houses will be announced in local media and at *https://parkplanning.nps.gov/CAHASediment.*

ADDRESSES: Information will be available for public review online at *https://parkplanning.nps.gov/CAHASediment* and in the Office of the Superintendent, 1401 National Park Drive, Manteo, North Carolina, 27954 (252–473–2111, telephone).

FOR FURTHER INFORMATION CONTACT: Sabrina Henry, Environmental Protection Specialist- Compliance, 1401 National Park Drive, Manteo, North Carolina, 27954 (252–423–1541, telephone).

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C) (NEPA), the NPS is preparing an EIS for sediment management, including the method, locations, and frequency for sediment management actions that be may be permitted through a special use permit, at the Seashore, for the next two decades. The NPS invited the following agencies to participate as cooperating agencies in this NEPA process: Bureau of Ocean Energy Management, US Fish and Wildlife Service (USFWS), the US Army Corp of Engineers Wilmington District (Regulatory and Planning Divisions), US Coast Guard, North Carolina Department of Transportation (NCDOT) (Ferry and Highway Divisions), North Carolina Wildlife Resources Commission, Dare County, and Hyde County.

Background

Authorized in 1937 along the Outer Banks of North Carolina, Cape Hatteras is the nation's first national seashore. Consisting of more than 30,000 acres distributed along approximately 67 miles of shoreline, the Seashore is part of a dynamic barrier island system. Nine villages, including Nags Head, Rodanthe, Waves, Salvo, Avon, Buxton, Frisco, Hatteras, and Ocracoke, are located adjacent to or within the Seashore. Pea Island National Wildlife Refuge, which is jointly managed by the USFWS, is also located within the administrative boundary of the Seashore, south of Oregon Inlet.

Natural accretion and erosion processes have been impacted at the Seashore for decades due to anthropogenic activities (*e.g.,* dune building, dune planting, inlet dredging and maintenance of dunes) and other changes (*e.g.,* sea-level rise). Sediment management efforts have been used at the Seashore to control erosion and stabilize sand dunes. From the 1930s through the 1960s, active dune building, and revegetation efforts occurred along the Seashore. Since the 1970s, localized beach nourishment has been the primary method of combating shoreline erosion, but has been restricted to Ocracoke Island, the Buxton/Cape Hatteras area, and Rodanthe. In some places, segments of beach are relatively stable, and natural processes maintain high dunes. In other places, erosion results in ocean encroachment on the dunes and results in the ocean washing over onto North Carolina Highway 12

(NC 12) and within adjacent communities.

Purpose and Need

The purpose of the EIS is to develop a streamlined framework for implementing sediment management at the Seashore, including the method, location, and frequency for sediment management actions that may be permitted. We have received various requests and anticipate future requests to issue special use permits for protecting roads, bridges, electrical transmission facilities, and other public transportation facilities; repairing island damages, including breaches that also affect transportation; and restoring habitat through the placement of dredged materials along eroded sections of barrier islands. A sediment management framework is needed to assist the Seashore in addressing these requests, while avoiding and minimizing impacts that may be associated with such actions conducted by NPS and other agencies to mitigate shoreline erosion. The framework is needed to limit impacts to the Seashore and provide timely response for localized beach nourishment efforts in the face of increased storm events and projected sea-level rise. Similarly, sediment management strategies may be used for specific habitat restoration projects.

Alternatives

The NPS will evaluate alternative approaches for sediment management at the Seashore. The NPS is considering the following alternatives.

Under Alternative A, the no-action alternative, the NPS would not permit others to conduct sediment management activities at the Seashore over the next two decades. No habitat restoration projects that include the placement of sediment would occur. The NCDOT currently maintains an easement through the Seashore for NC 12. The no-action alternative would preclude NCDOT from maintaining NC 12 outside of its existing easement, potentially resulting in the loss of the highway.

Under Alternative B, the proposed action, the NPS could permit other agencies and municipalities to conduct, with conditions, sediment management in the form of ocean- and sound side-beach nourishment, filling island breaches, and dune restoration. This alternative would also recognize that NPS and others may independently or in partnership restore beach habitats or periodically protect specific facilities or resources through sediment placement in areas that have been affected by erosion. The proposed action includes the following elements:

- Beach nourishment may be used to mitigate coastal erosion at various sites along the Seashore, including ocean and sound-side environments. Beach nourishment may occur at up to two locations per year, using between 50–250 cubic yards of sediment per foot, placed via dredge or sediment trucking. Sediment management permitted under the proposed action would fall within the general parameters of past beach nourishment projects.
- The restoration of habitat may occur in locations such as the southern end of Hatteras Island and Green Island in Oregon Inlet. Restored habitat could benefit nesting shorebirds and sea turtles. Habitat restoration projects would include the application of dredge material and moving/manipulating sand at the site with heavy machinery. Dredge material may come from the pipeline dredging operations or other sources, provided the sediment is a close match to the sediment grain size found at the proposed action site.
- Dune reconstruction and enhancement, as well as moving or regrading sediment to protect existing access and public facilities, may occur. Actions that promote natural dune building processes, such as beach grass planting and sand fencing, are included in the proposed action and may be carried out
- Emergency breach fill may occur under the proposed action. When inlets, overwash areas, or damaged roadways are caused by wave, water, and wind action during storm events, they may be closed due to roadway reconstruction activities. These projects may include trucking, staging, and pumping sediment in from other locations.

The NPS will not select an alternative for implementation until after the final EIS is completed. The NPS will analyze the impacts of the alternatives on littoral processes and barrier island morphology, benthic organisms and essential fish habitat, sea turtles, shorebirds, and structures and infrastructure. Additional alternatives may be considered during the process of preparing an EIS.

Public Comment

How to Provide Comments—During the scoping period, project information will be available on the project's website at *https://parkplanning.nps.gov/CAHASediment.* Public open houses will be conducted to provide an opportunity for the public to share their comments and learn more about activities at the Seashore. Details regarding the exact times and locations of these meetings will be announced on the project website and through local and regional media. The meetings will also be announced through email notification, press release, and social media to individuals and organizations.

If you wish to comment on the purpose, need, preliminary alternatives, additional alternatives, or on any other issues associated with development of the framework and EIS, you may submit your comments by any one of several methods. The preferred method for commenting is online at *https://parkplanning.nps.gov/CAHASediment.* You may mail or hand deliver comments to the Superintendent, Cape Hatteras National Seashore, 1401 National Park Drive, Manteo, North Carolina, 27954. Written comments will also be accepted at the public open houses. Comments will not be accepted by fax, email, or by any method other than those specified above. Bulk comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted.

Public Availability of Comments—Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7.

Robert A. Vogel,

Regional Director, Interior Region 2, South Atlantic-Gulf.

[FR Doc. 2020–07426 Filed 4–9–20; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1140]

Certain Multi-Stage Fuel Vapor Canister Systems and Activated Carbon Components Thereof; Commission Determination To Review in Part, Take No Position on the Issues Under Review, and Affirm in Part a Final Initial Determination Finding No Violation of Section 337; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade

Commission (''Commission'') has determined to review in part the final initial determination (''ID'') issued by the presiding administrative law judge (''ALJ'') on January 28, 2020, finding no violation of section 337 of the Tariff Act of 1930, as amended (''section 337''), in connection with the asserted patent. The Commission has determined to take no position on the issues under review. The Commission has also determined to affirm the ID's findings that the asserted patent claims are invalid. This investigation is terminated with a finding of no violation of section 337.

FOR FURTHER INFORMATION CONTACT: Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–3427. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 14, 2018, based on a complaint filed by Ingevity Corp. and Ingevity South Carolina, LLC, both of North Charleston, South Carolina (together, ''Ingevity''). 83 FR 64356. The complaint, as supplemented, alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain multi-stage fuel vapor canister systems and activated carbon components thereof by reason of infringement of certain claims of U.S. Patent No. RE38,844 (''the '844 patent''). *Id.* The Commission's notice of investigation named as respondents MAHLE Filter Systems North America, Inc. of Murfreesboro, Tennessee; MAHLE Filter Systems Japan Corp. of Saitama, Japan; MAHLE Sistemas de Filtracion de Mexico de C.V. of Monterrey, Mexico; MAHLE Filter Systems Canada, ULC of Tilbury, Canada (altogether, ''MAHLE''); Kuraray Co., Ltd. of Tokyo, Japan (''Kuraray''); Kuraray America, Inc. of Houston, Texas; and Nagamine Manufacture Co., Ltd. of Manno, Japan (''Nagamine''). *Id.* The Commission subsequently amended the complaint and notice of investigation to add Calgon Carbon Corporation (''Calgon'') as a respondent and to remove Kuraray America, Inc. as a respondent. 84 FR 11555 (Mar. 27, 2019). The remaining respondents are collectively referred to herein as ''Respondents.'' The Office of Unfair Import Investigations is not participating in this investigation. 83 FR 64356.

On January 28, 2020, the ALJ issued the final ID, which finds that Respondents did not violate section 337. More particularly, the final ID found, *inter alia:* (1) Ingevity, its customers, and operators of the domestic industry articles have been shown to practice the asserted claims of the '844 patent; (2) the domestic industry requirement is satisfied with respect to the '844 patent; (3) Respondent MAHLE directly and/or indirectly infringes the asserted claims of the '844 patent; (4) Respondents Kuraray and Nagamine indirectly infringe the asserted claims; (5) the asserted claims of the '844 patent have been shown to be invalid under 35 U.S.C. 102 and/or 35 U.S.C. 103 over the Delphi prior invention, or the combination of the Delphi prior invention with other references; (6) the asserted claims of the '844 patent have been shown to be invalid under 35 U.S.C. 102 and/or 35 U.S.C. 103 over Meiller and/or Park and other references; (7) independent claim 18 of the '844 patent, and those depending therefrom, have been shown to be invalid under 35 U.S.C. 112 for indefiniteness, but independent claims 1, 31, and 43, and those depending therefrom, have not been shown to be invalid under 35 U.S.C. 112 for indefiniteness; and (8) patent exhaustion does not bar Ingevity's sought relief.

On February 10, 2020, the private parties filed petitions for review of the final ID, and on February 18, 2020, the private parties filed responses.

Having examined the record in this investigation, including the final ID, the petitions for review, and the responses thereto, the Commission has determined to review the final ID in part. In particular, the Commission has determined to review the following issues:

(1) Whether the asserted claims are invalid under 35 U.S.C. 103 over Meiller and/or Park and other references.

(2) Whether the asserted claims are invalid under 35 U.S.C. 112 for indefiniteness related to the claim terms identified by the parties as the Volume Terms, including the final ID's discussion of the scope of the Volume Terms.

(3) Whether the accused products infringe the asserted claims of the '844 patent, and whether Respondents indirectly infringe the asserted claims of the '844 patent.

(4) Whether Ingevity's sale of its HCA carbons to MAHLE that are later incorporated into a subset of Accused Canisters that also contain BAX carbons exhausts Ingevity's patent rights as to those Accused Canisters.

(5) Whether Ingevity satisfied the domestic industry requirement of section 337.

(6) Whether Ingevity demonstrated satisfaction of the importation requirement of section 337, as set forth in the final ID beginning on page 34 through the carryover paragraph on page 35.

(7) Whether Ingevity illegally tied the sales of its products to allowing its customers to practice the '844 patent.

The Commission has determined to not review the remainder of the final ID.

The Commission has determined to take no position on the issues under review. Accordingly, this investigation is terminated with a finding of no violation of section 337 based on the unreviewed findings of the final ID that the asserted claims have been shown to be invalid under 35 U.S.C. 102 and/or 35 U.S.C. 103 over the Delphi prior invention, or the combination of the Delphi prior invention with other references. This investigation is hereby terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: April 7, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–07589 Filed 4–9–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Amended Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received an amended complaint entitled *Certain Spa Pumps, Jet Pump Housings, Pedicure Spas, Components Thereof, and Products Containing the Same, DN 3432;* the

Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a second amended complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Luraco Health & Beauty, LLC, on April 6, 2020. The original complaint was filed on February 4, 2020 and a notice of receipt of complaint; solicitation of comments relating to the public interest published in the **Federal Register** on February 10, 2020. The Commission received a first amended complaint on March 17, 2020 and a notice of receipt of complaint; solicitation of comments relating to the public interest published on March 23, 2020. The second amended complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain spa pumps, jet pump housings, pedicure spas, components thereof, and products containing the same. The second amended complaint names as respondents: GTP International Corporation, Dallas, TX; Lac Long U.S. Inc., Westminster, CA; Lac Long Co., Ltd, Vietnam; and Alfa Nail Supply, Inc. Baton Rouge, LA. The complainant requests that the Commission issue a general exclusion order or in the alternative a limited exclusion order and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3432'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures).[1] Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: April 7, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–07626 Filed 4–9–20; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODPi, Inc.

Notice is hereby given that, on March 26, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ODPi, Inc. (''ODPi'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Cloudera, Inc., Santa Clara, CA; and ArenaData, Moscow, RUSSIA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ODPi intends to file additional written notifications disclosing all changes in membership.

On November 23, 2015, ODPi filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 23, 2015 (80 FR 79930).

The last notification was filed with the Department on January 6, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 31, 2020 (85 FR 5720).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–07594 Filed 4–9–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Media Workflow Association, Inc.

Notice is hereby given that, on March 20, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Media Workflow Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Euro Media Group, St. Denis, France; and Qvest Media GmbH, Cologne, Germany, have been added as parties to this venture.

Also, MOG Solutions, Maia, Portugal; and William Claghorn (individual member), Benicia, CA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Media Workflow Association, Inc. intends to file additional written notifications disclosing all changes in membership.

On March 28, 2000, Advanced Media Workflow Association, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 29, 2000 (65 FR 40127).

The last notification was filed with the Department on December 12, 2019. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 30, 2019 (84 FR 71977).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–07600 Filed 4–9–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on ROS-Industrial Consortium Americas

Notice is hereby given that, on March 24, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on ROS-Industrial Consortium-Americas (''RIC-Americas'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, MegaChips Corporation, Osaka, JAPAN, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and RIC-Americas intends to file additional written notifications disclosing all changes in membership.

On April 30, 2014, RIC-Americas filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on March 2, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 20, 2020 (85 FR 16132).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–07597 Filed 4–9–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–508A]

Adjustments to Aggregate Production Quotas for Certain Schedule II Controlled Substances and Assessment of Annual Needs for the List I Chemicals Ephedrine and Pseudoephedrine for 2020, in Response to the Coronavirus Disease 2019 Public Health Emergency

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice; final order.

SUMMARY: The Drug Enforcement Administration is adjusting the 2020 aggregate production quotas for certain controlled substances in schedule II of the Controlled Substances Act and the assessment of annual needs for the list I chemicals ephedrine and pseudoephedrine. This increase is in response to the current nationwide COVID–19 public health emergency as declared by the Secretary of Health and Human Services on January 31, 2020.

DATES: Effective April 10, 2020. Interested persons may file written comments on this notice in accordance with 21 CFR 1303.13(c) and 1315.13(d). Electronic comments must be submitted, and written comments must be postmarked, on or before May 11, 2020. Commenters should be aware that

the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–508A'' on all correspondence, including any attachments. The Drug Enforcement Administration encourages that all comments be submitted electronically through the Federal eRulemaking Portal which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *http://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon completion of your submission you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on *Regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. Paper comments that duplicate electronic submissions are not necessary and are discouraged. Should you wish to mail a paper comment *in lieu* of an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Scott A. Brinks, Regulatory Drafting and Policy Support Section, Diversion Control Division, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152, Telephone: (571) 362–3261.

SUPPLEMENTARY INFORMATION:

Legal Authority and Background

Section 306 of the Controlled Substances Act (CSA) (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for each basic class of controlled substance listed in schedule I and II and for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. The Attorney General has delegated this function to the Administrator of the Drug Enforcement Administration (DEA) pursuant to 28 CFR 0.100.

DEA established the 2020 aggregate production quotas and assessment of annual needs on December 2, 2019, (84 FR 66014) to represent those quantities of schedule I and II controlled substances and the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine that may be manufactured in the United States to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks. These quotas include imports of ephedrine, pseudoephedrine, and phenylpropanolamine, but do not include imports of controlled substances for use in industrial processes. The order stipulated that all aggregate production quotas and assessments of annual needs are subject to adjustment, in accordance with 21 CFR 1303.13 and 1315.13.

Public Health Emergency

Coronavirus disease 2019 (COVID–19) is a respiratory illness that can spread from person to person which can result in multi-organ failures, pneumonia, or death.[1] COVID–19 has rapidly spread through numerous countries, including the United States. COVID–19 poses a serious public health risk and all 50 states have reported cases of COVID–19.[2] On January 31, 2020, the Secretary of Health and Human Services (HHS) declared a public health emergency. DEA is closely collaborating with HHS to ensure an adequate and uninterrupted supply of controlled substances in order to meet the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks.

Analysis for the Proposed Adjustments to the 2020 Aggregate Production Quotas and Assessment of Annual Needs

DEA is adjusting the established 2020 aggregate production quotas and assessment of annual needs for selected schedule II controlled substances and list I chemicals, to be manufactured in the United States to provide for the estimated needs of the United States. These adjustments are necessary to ensure that the United States has an adequate and uninterrupted supply of these substances as the country moves through this public health emergency. Although the existing 2020 quota level is sufficient to meet current needs, DEA is acting proactively to ensure that—should the public health emergency become more acute—there is sufficient quota for these important drugs.

[1] *https://www.cdc.gov/coronavirus/2019-ncov/downloads/2019-ncov-factsheet.pdf.*

[2] *https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fsummary.html.*

Factors for Determining the Proposed Adjustments

In determining these adjustments, the Acting Administrator has taken into account the criteria in accordance with 21 CFR 1303.13 (adjustment of aggregate production quotas for controlled substances). The Acting Administrator is authorized to increase or reduce the aggregate production quota at any time. 21 CFR 1303.13(a). DEA regulations state that there are five factors that shall be considered in determining to adjust the aggregate production quota. 21 CFR 1303.13(b). Accordingly, the Acting Administrator has taken into account the following factors when determining to make the adjustments described below for 2020: (1) Changes in the demand for that class, changes in the national rate of net disposal of the class, changes in the rate of net disposal of the class by registrants holding individual manufacturing quotas for that class, and changes in the extent of any diversion in the class; (2) whether any increased demand for that class, the national and/or individual rates of net disposal of that class are temporary, short term, or long term; (3) whether any increased demand for that class can be met through existing inventories, increased individual manufacturing quotas, or increased importation, without increasing the aggregate production quota, taking into account production delays and the probability that other individual manufacturing quotas may be suspended pursuant to 21 CFR 1303.24(b); (4) whether any decreased demand for that class will result in excessive inventory accumulation by all persons registered to handle that class (including manufacturers, distributors, practitioners, importers, and exporters), notwithstanding the possibility that individual manufacturing quotas may be suspended pursuant to 21 CFR 1303.24(b) or abandoned pursuant to 21 CFR 1303.27; and (5) other factors affecting medical, scientific, research, and industrial needs in the United States and lawful export requirements, as the Acting Administrator finds relevant, including changes in the currently accepted medical use in treatment with the class or the substances which are manufactured from it, the economic and physical availability of raw materials for use in manufacturing and for inventory purposes, yield and stability problems, potential disruptions to production (including possible labor strikes), and recent unforeseen emergencies such as floods and fires. 21 CFR 1303.13(b). The Acting Administrator has taken into consideration, in particular, the

unforeseen emergency posed by COVID–19 and the effect the emergency is having on the need for certain controlled substances, particularly for patients who are on ventilators.

Considerations Based Upon the Substance Use-Disorder Prevention That Promotes Opioid Recovery and Treatment for Patients and Communities Act

Pursuant to 21 U.S.C. 826(a)(1), ''production quotas shall be established in terms of quantities of each basic class of controlled substance and not in terms of individual pharmaceutical dosage forms prepared from or containing such a controlled substance.'' However, the Substance Use-Disorder Prevention that Promotes Opioid Recovery Treatment for Patients and Communities Act of 2018 (SUPPORT Act), (Pub. L. 115–271), provides an exception to that general rule by now giving DEA the authority to establish quotas in terms of pharmaceutical dosage forms if the agency determines that doing so will assist in avoiding the overproduction, shortages, or diversion of a controlled substance.

In addition to the factors listed above, DEA must estimate the amount of diversion of any substance that is considered a ''covered controlled substance,'' as defined by the SUPPORT Act. 21 U.S.C. 826(i)(1)(A). The SUPPORT Act lists fentanyl, oxycodone, hydrocodone, oxymorphone, and hydromorphone as the ''covered controlled substances.'' Through the SUPPORT Act, DEA is also required to ''make appropriate quota reductions, as determined by the [Administrator],[3] from the quota the [Administrator] would have otherwise established had such diversion not been considered.'' 21 U.S.C. 826(i)(1). When estimating diversion, the ''[Administrator] (i) shall consider information the [Administrator], in consultation with the Secretary of [HHS], determines reliable on rates of overdose deaths and abuse and overall public health impact related to the covered controlled substance in the United States; and (ii) may take into consideration whatever other sources of information the [Administrator] determines reliable.''[4] *Id.*

Information Considered To Satisfy the Factors for Determining the Adjustments

For the factors listed in 21 CFR 1303.13(b)(1) and (2), DEA consulted with HHS and determined that the utilization rates for selected medications required to implement the treatment regimens for ventilator patients stricken with the COVID–19 virus have substantially increased compared to the previously estimated annual consumption rates. There is a substantial range in the number of patients that will require ventilation treatment due to COVID–19, as the United States is still in the early stages of modeling best-case/worst-case scenarios for infection and hospitalization rates. Although DEA has considered this crisis to be a short-term increase in rate of disposal, the unknown factor is the estimated number of patients requiring a ventilator regimen in addition to the patients with other medical conditions that already require ventilator assistance.

For the factors listed in 21 CFR 1303.13(b)(3) and (4), DEA has already waived the requirement for manufacturers to suspend their manufacturing capacity pursuant to 1303.24(b) and cannot foresee any decrease in demand for the selected classes of controlled substances as currently modeled by HHS. DEA has considered the current requirements for social distancing that have been implemented by manufacturers which may lead to increases in production delays. DEA will monitor the individual manufacturing and procurement quotas granted in an effort to prevent excessive inventory accumulation by all persons registered to handle the classes. By monitoring individual manufacturing and procurement quotas, DEA will insure that the increase in APQ will be utilized primarily for the manufacturing of medications identified by the FDA as involved in the sedation, intubation, and pain relief of patients being treated for COVID–19. With respect to factor 21 CFR 1303.13(b)(5), the Acting Administrator has determined that the COVID–19 pandemic constitutes an unforeseen emergency supporting the increase in the aggregate production quotas and assessments of annual needs for the substances set forth below.

Setting APQ in Terms of Pharmaceutical Dosage Form and the Estimation of Diversion as Established by the SUPPORT Act

While DEA is now allowed to issue quotas in terms of pharmaceutical dosage form, it is not required to do so. DEA will not be utilizing this authority at the aggregate production quota level, but will be doing so at the individual dosage-form manufacturing level where it will have a greater impact on averting potential shortages. Because quotas set at the individual dosage-form manufacturing level are more directly connected to distributions of current and new FDA-approved drug products, they allow DEA to manage manufacturing quotas to alleviate any potential shortage in a more timely manner than with quotas set at the aggregate production quota level. This is also true because the aggregate production quota is initially established prior to the start of the quota calendar year.

To estimate diversion as is required by the SUPPORT Act, DEA aggregated the active pharmaceutical ingredient (API) of each covered controlled substance by metric weight where the data was available in internal databases. Based on the individual entries into the aforementioned databases, DEA calculated the estimated amount of diversion by multiplying the strength of the API listed for each finished dosage form by the total amount of units reported to estimate the metric weight in kilograms of the controlled substance being diverted. The estimate of diversion for each of the covered controlled substances is reported below.

Diversion estimates for 2019 (kg)	
Fentanyl	.090
Hydromorphone	1.288
Oxymorphone	N/A

Additional Legal Considerations

The procedures by which DEA adjusts aggregate production quotas are set forth in the DEA regulations. As stated in 21 CFR 1303.13, the Acting Administrator, upon determining that an adjustment of the aggregate production quota of any basic class of controlled substance is necessary, shall publish in the **Federal Register** general notice of an adjustment in the aggregate production quota for that class. Any interested person may file comments or objections to these adjusted aggregate production quotas within the time specified by the Acting Administrator in this notice.

Section 1303.13 further provides that, ''[a]fter consideration of any comments

[3] All functions vested in the Attorney General by the CSA have been delegated to the Administrator of DEA. 28 CFR 0.100(b).

[4] DEA intends to finalize amendments to the Agency's regulations that will implement the amendments to the CSA made by the SUPPORT Act. Although these amendments to the regulations have not yet been issued, the statutory requirements stated above became effective upon enactment of the SUPPORT Act, and DEA is therefore obligated to adhere to them in issuing these adjusted aggregate production quotas.

or objections . . . the Acting Administrator shall issue and publish in the **Federal Register** his final order determining the aggregate production quota for the basic class of controlled substance.'' The Acting Administrator has determined, however, that because of the nationwide public health emergency declared by the Secretary of HHS on January 31, 2020, in response to the COVID–19 public health emergency, the public interest requires that this final order be effective immediately. Accordingly, pursuant to 21 CFR 1307.03, the Acting Administrator hereby waives the provision of 21 CFR 1303.13 which requires consideration of any comments or objections prior to the publication of this final order. The Acting Administrator will, however, consider any comments or objections filed in response to this final order in determining whether any further adjustment to the aggregate production quota for calendar year 2020 is necessary. The Acting Administrator has made the same determination with respect to the adjustment of the assessment of annual need for ephedrine and pseudoephedrine.

Determination of 2020 Adjusted Aggregate Production Quotas and Assessment of Annual Needs

In determining the adjustment of 2020 aggregate production quotas and assessment of annual needs, DEA has taken into consideration the factors set forth in 21 CFR 1303.13(b) and 21 CFR 1315.13(b), in accordance with 21 U.S.C. 826(a) and (i), and the current public health emergency due to COVID–19. Based on all of the above, the Acting Administrator is adjusting the 2020 aggregate production quotas for 4-Anilino-N-Phenethyl-4-Piperidine (ANPP), Codeine (for sale), Fentanyl, Hydromorphone, Methadone (for sale), Methadone Intermediate, Morphine (for sale), Noroxymorphone (for conversion), Oripavine, and Oxymorphone (for conversion); as well as the 2020 annual assessment of needs for ephedrine (for sale) and pseudoephedrine (for sale). Based upon DEA's consultations with federal partners at HHS, drug manufacturers, drug distributors and hospital associations, DEA understands that products containing Fentanyl, Hydromorphone, Morphine, Codeine, Pseudoephedrine and Ephedrine, are often used to treat patients in intensive care units and those on ventilators or for individuals who may have conditions which impact their breathing. In order to produce those products, DEA must also increase the aggregate production quota for the following controlled substance intermediates: ANPP, Noroxymorphone (for conversion), Oripavine and Oxymorphone (for conversion).

The Acting Administrator hereby adjusts the 2020 aggregate production quotas for the following schedule II controlled substances and the 2020 assessment of annual needs for the list I chemicals ephedrine and pseudoephedrine, expressed in grams of anhydrous acid or base, as follows:

Controlled substance	Current APQ (g)	Adjusted APQ (g)
Schedule II		
4-Anilino-N-Phenethyl-4-Piperidine (ANPP)	813,005	934,956
Codeine (for sale)	30,731,558	35,341,292
Fentanyl	813,005	934,956
Hydromorphone	3,054,479	3,512,651
Methadone (for sale)	22,278,000	25,619,700
Methadone Intermediate	24,064,000	27,673,600
Morphine (for sale)	29,353,655	33,756,703
Noroxymorphone (for conversion)	19,169,340	22,044,741
Oripavine	28,705,000	33,010,750
Oxymorphone (for conversion)	24,525,540	28,204,371
List I Chemicals		
Ephedrine (for sale)	4,136,000	4,756,400
Pseudoephedrine (for sale)	174,246,000	200,382,900

The aggregate production quotas for all other schedule I and II controlled substances included in the 2020 established aggregate production quotas and the 2020 assessment of annual needs for the list I chemical phenylpropanolamine remain at this time as previously established.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2020–07593 Filed 4–9–20; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Death Gratuity

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before May 11, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *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.

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.

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The National Defense Authorization Act for Fiscal Year 2008, Public Law 110–181, was enacted on January 28, 2008. Section 1105 of Public Law 110–181 amended the Federal Employees' Compensation Act (FECA) creating a new section, 5 U.S.C. 8102a effective upon enactment. This section establishes a FECA death gratuity benefit of up to $100,000 for eligible beneficiaries of federal employees and Non-Appropriated Fund Instrumentality (NAFI) employees who die from injuries incurred in connection with service with an Armed Force in a contingency operation. 5 U.S.C.§ 8102a also permits agencies to authorize retroactive payment of the death gratuity for employees who died on or after October 7, 2001 in service with an Armed Force in the theater of operations of Operation Enduring Freedom and Operation Iraqi Freedom. 5 U.S.C. 8102a also allows federal employees to vary the order of precedence of beneficiaries or to name alternate beneficiaries 20 CFR 10.909, and 10.911 provides that the CA–40, CA–41, and CA–42 are the forms to be used to designate beneficiaries and initiate the payment process for death gratuity benefits. Form CA–40 is an optional form that requests the information necessary from the employee to accomplish this variance and to name alternate beneficiaries only if the employee wishes to do so. Form CA–41 provides the means for those named beneficiaries and possible recipients to file claims for those benefits and requests information from such claimants so that OWCP may determine their eligibility for payment. Further, the statute and regulations require agencies to notify OWCP immediately upon the death of a covered employee. CA–42 provides the means to accomplish this notification and requests information necessary to administer any claim for benefits resulting from such a death. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 5, 2019 (84 FR 59652).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Death Gratuity.

OMB Control Number: 1240–0017.

Affected Public: Individuals or Households, Federal Government.

Total Estimated Number of Respondents: 4.

Total Estimated Number of Responses: 4.

Total Estimated Annual Time Burden: 1 hours.

Total Estimated Annual Other Costs Burden: $1.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: April 7, 2020.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2020–07610 Filed 4–9–20; 8:45 am]

BILLING CODE 4510–CH–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 20–041]

NASA Advisory Council; Regulatory and Policy Committee; 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 April 15, 2020, of the Regulatory and Policy Committee of the NASA Advisory Council is being postponed until further notice. This meeting was announced in the **Federal Register** Vol. 85, No. 60, Friday, March 27, 2020, Notices, page 17369. NASA will announce the new dates for this meeting in a future **Federal Register** notice.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2020–07581 Filed 4–9–20; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 2 meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference.

DATES: See the **SUPPLEMENTARY INFORMATION** section for individual meeting times and dates. All meetings are Eastern time and ending times are approximate.

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Sherry Hale, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; *hales@arts.gov,* or call 202/682–5696.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of September 10, 2019, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

The upcoming meetings are:

Arts Education Partnership (review of applications): This meeting will be closed.

Date and time: May 6, 2020 3:00 p.m. to 5:00 p.m.

Creative Forces: NEA Military Healing Arts Network (Community Arts Engagement) (review of applications): This meeting will be closed.

Date and time: May 6, 2020 3:00 p.m. to 5:00 p.m.

Dated: April 7, 2020.

Sherry Hale,

Staff Assistant, National Endowment for the Arts.

[FR Doc. 2020–07595 Filed 4–9–20; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 1 meeting of the Federal Advisory Committee on International Exhibitions to the National Endowment for the Arts will be held by teleconference.

DATES: See the **SUPPLEMENTARY INFORMATION** section for individual meeting times and dates. All meetings are Eastern time and ending times are approximate.

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Sherry Hale, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; *hales@arts.gov,* or call 202/682–5696.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of September 10, 2019, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

The upcoming meeting is:

Federal Advisory Committee on International Exhibitions (FACIE)—Visual Arts (review of applications): This meeting will be closed.

Date and time: May 6, 2020 2:00 p.m. to 4:00 p.m.

Dated: April 7, 2020.

Sherry Hale,

Staff Assistant, National Endowment for the Arts.

[FR Doc. 2020–07596 Filed 4–9–20; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–280 and 50–281; NRC–2018–0280]

Virginia Electric and Power Company; Dominion Energy Virginia; Surry Power Station, Unit Nos. 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Final supplemental environmental impact statement.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has published a final plant-specific supplement, Supplement 6, Second Renewal, to the Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants, NUREG–1437, regarding the subsequent renewal of Facility Operating License Nos. DPR–32 and DPR–37 for an additional 20 years of operation for Surry Power Station, Unit Nos. 1 and 2, respectively (Surry). Surry is located in Surry County, Virginia.

DATES: The final Supplement 6, Second Renewal to the GEIS is available as of April 6, 2020.

ADDRESSES: Please refer to Docket ID NRC–2018–0280 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov/* and search for Docket ID NRC–2018–0280. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *https://www.nrc.gov/reading-rm/pdr.html.* The final Supplement 6, Second Renewal is available in ADAMS under Accession No. ML20071D538.

Due to national emergency associated with COVID–19 situation, the staff is unable to mail CDs of the Surry final SEIS to those addressees with mailing addresses listed in Chapter 8 of the final SEIS. The staff encourages these addressees to visit the NRC's NUREG-Series Publication website (*https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/*) to download an electronic copy. You may also obtain an electronic copy of the final SEIS by contacting Mr. Tam Tran via email (*Tam.Tran@nrc.gov*).

FOR FURTHER INFORMATION CONTACT: Tam Tran, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3617, email: *Tam.Tran@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 51.118 of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC is making available final Supplement 6, Second Renewal to NUREG–1437, regarding the renewal of Virginia Electric and Power Company; Dominion Energy Virginia (Dominion), operating licenses DPR–32 and DPR–37 for an additional 20 years of operation for Surry Power Station, Unit Nos. 1 and 2 (Surry). A Notice of Availability of Draft Supplement 6, Second Renewal to NUREG–1437 was published in the **Federal Register** on October 25, 2019 (84 FR 57417 and 84 FR 56488), by the Environmental Protection Agency. The public comment period on draft Supplement 6, Second Renewal to NUREG–1437 ended on December 10, 2019, and the comments received are addressed in final Supplement 6, Second Renewal to NUREG–1437.

II. Discussion

As discussed in Chapter 5 of final Supplement 6, Second Renewal to NUREG–1437, the NRC staff determined that the adverse environmental impacts of subsequent license renewal for Surry are not so great that preserving the option of subsequent license renewal for energy-planning decisionmakers would not be unreasonable. This recommendation is based on: (1) The analysis and findings in the GEIS; (2) information provided in the environmental report and other documents submitted by Dominion; (3) consultation with Federal, State, Tribal,

and local agencies; (4) the NRC staff's independent environmental review; and (5) consideration of public comments received during the scoping process and on the draft Supplemental Environmental Impact Statement.

Dated: April 6, 2020.

For the Nuclear Regulatory Commission.

Robert B. Elliott,

Chief, Environmental Review License Renewal Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2020–07560 Filed 4–9–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0125]

Information Collection: Suspicious Activity Reporting Using the Protected Web Server

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Suspicious Activity Reporting Using the Protected Web Server.''

DATES: Submit comments by May 11, 2020. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit comments directly to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150–0219), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0125 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0125. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2019–0125 on this website.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS public documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML20049H198.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov/* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Suspicious Activity Reporting Using the Protected Web Server.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on December 9, 2019 (84 FR 67298).

1. *The title of the information collection:* Suspicious Activity Reporting Using the Protective Web Server.

2. *OMB approval number:* 3150–0219.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* N/A.

5. *How often the collection is required or requested:* On occasion. Reporting is done on a voluntary basis, as suspicious incidents occur.

6. *Who will be required or asked to respond:* Nuclear power reactor licensees provide the majority of reports, but other entities that may voluntarily send reports include fuel facilities, independent spent fuel storage installations, decommissioned power reactors, power reactors under construction, research and test reactors, agreement States, non-agreement States, as well as users of byproduct material (*e.g.,* departments of health, medical centers, steel mills, well loggers, and radiographers).

7. *The estimated number of annual responses:* 124.

8. *The estimated number of annual respondents:* 62.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 248.

10. *Abstract:* NRC licensees voluntarily report information on suspicious incidents on an ad-hoc basis, as these incidents occur. This information is shared with authorized nuclear industry officials and Federal, State, and local government agencies using the Protected Web Server. Information provided by licensees is considered OFFICIAL USE ONLY and is not made public.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated: April 7, 2020.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2020–07615 Filed 4–9–20; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Sunshine Act Meetings

TIME AND DATE: 10:00 a.m., April 21, 2020.

PLACE: This meeting will be held by teleconference. Members of the public wishing to attend must submit a written request at least 24 hours prior to the teleconference to receive dial-in information. All requests must be sent to *SecretarytotheBoard@rrb.gov.*

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Old Business
2. Agency Operations

CONTACT PERSON FOR MORE INFORMATION: Stephanie Hillyard, Secretary to the Board, (312) 751–4920.

Authority: 5 U.S.C. 552b.

Dated: April 8, 2020.

Stephanie Hillyard,

Secretary to the Board.

[FR Doc. 2020–07735 Filed 4–8–20; 4:15 pm]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 3:00 p.m. on Wednesday, April 15, 2020.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topic:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: April 8, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–07750 Filed 4–8–20; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88568; File No. SR–NASDAQ–2020–014]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the First Trust California Municipal High Income ETF and the First Trust Municipal High Income ETF

April 6, 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 27, 2020, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes a rule change relating to the First Trust California Municipal High Income ETF (the ''California Fund'') and the First Trust Municipal High Income ETF (the ''Municipal Fund''), each a series of First Trust Exchange-Traded Fund III (the ''Trust''), the shares of which have been approved by the Commission for listing and trading under Nasdaq Rule 5735 (''Managed Fund Shares''). The California Fund and the Municipal Fund are each, a ''Fund'' and collectively, the ''Funds.'' The shares of the Funds are collectively referred to herein as the ''Shares.''

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.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 Commission has approved the listing and trading of Shares under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange.[3] The Exchange

[3] The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR–NASDAQ–2008–039). The Commission previously approved the listing and trading of the Shares of each Fund. With respect to the California Fund, *see* Securities Exchange Act Release No. 80745 (May 23, 2017), 82 FR 24755 (May 30, 2017) (SR–NASDAQ–2017–033) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendments No. 1 and 2, To List and Trade Shares of the First Trust California Municipal High Income

Continued

believes the proposed rule change reflects no significant issues not previously addressed in the Prior Releases.

Each Fund is an actively-managed exchange-traded fund (''ETF''). The Shares of each Fund are offered by the Trust, which was established as a Massachusetts business trust on January 9, 2008. The Trust, which is registered with the Commission as an investment company under the Investment Company Act of 1940 (the ''1940 Act''), has, with respect to each Fund, filed a post-effective amendment to its registration statement on Form N–1A (''Registration Statement'') with the Commission.[4] Each Fund is a series of the Trust.

As described in more detail below, the purpose of this proposed rule change is to delete a representation that was set forth (a) with respect to the California Fund, the California 2017 Release (and not subsequently modified in the 2019 Release) and (b) with respect to the Municipal Fund, the Municipal 2016 Release (and not subsequently modified in the Municipal 2017 Release or the 2019 Release) relating to weighted average maturity (*i.e.,* the ''Average Maturity Representation,'' as defined below) in order to provide the Adviser with additional flexibility in constructing and managing the applicable Fund's portfolio. The Exchange believes that the proposed modification would provide each Fund with greater ability to select ''Municipal Securities'' (as defined below) that would support such Fund's investment goals and should not raise concerns. In this regard, the Exchange notes that the Commission has previously approved other proposed rule changes involving ETFs investing in municipal securities that did not include a representation comparable to the Average Maturity Representation.[5] In addition, the generic listing standards for actively-managed ETFs that invest in fixed income securities (the ''Fixed Income GLS'') do not impose a requirement relating to the average maturity of securities in a portfolio.[6] Further, the 2019 Release includes certain representations that relate to each Fund's diversity, liquidity and mitigation of risks associated with manipulation that would not be affected by the proposed change.[7]

As described in the California Prior Release,[8] the primary investment objective of the California Fund is to seek to provide current income that is exempt from regular federal income taxes and California income taxes, and its secondary objective is long-term capital appreciation. As described in the Municipal Prior Release,[9] the primary investment objective of the Municipal Fund is to generate current income that is exempt from regular federal income taxes, and its secondary objective is long-term capital appreciation. Under normal market conditions, each Fund seeks to achieve its investment objectives by investing at least 80% of its net assets (including investment borrowings) in municipal debt securities (referred to as ''Municipal Securities'') that pay interest that is exempt from regular federal income taxes (and, in the case of the California Fund, California income taxes).

As discussed in the Prior Release for each Fund,[10] the applicable Fund may invest in Municipal Securities of any maturity. However, each Prior Release [11] also states that under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, the weighted average maturity of the applicable Fund will be less than or equal to 14 years (the ''Average Maturity Representation''). With respect to each Fund, the Average Maturity Representation has not previously been modified.

In order to provide each Fund with greater ability to select Municipal Securities that would support such Fund's investment goals, the Exchange is proposing that, going forward, the Average Maturity Representation be deleted. The Exchange does not believe that this change should raise concerns. As noted above, the Other Municipal Approvals did not include a similar representation and the Fixed Income GLS do not impose a comparable requirement. Further, the Exchange notes that the 2019 Release includes certain representations that relate to each Fund's diversity, liquidity and mitigation of risks associated with manipulation that would not be affected by the proposed change.[12]

ETF) (the ''California 2017 Release''). With respect to the Municipal Fund, *see* Securities Exchange Act Release No. 78913 (September 23, 2016), 81 FR 69109 (October 5, 2016) (SR–NASDAQ–2016–002) (Notice of Filing of Amendment No. 3, and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 3, To List and Trade Shares of the First Trust Municipal High Income ETF of First Trust Exchange-Traded Fund III) (the ''Municipal 2016 Release''). Subsequently, the Commission approved a proposed rule change relating to the Municipal Fund, the primary purpose of which was to modify certain representations included in the Municipal 2016 Release. *See* Securities Exchange Act Release No. 81265 (July 31, 2017), 82 FR 36460 (August 4, 2017) (SR–NASDAQ–2017–038) (Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendments No. 1 and 2, Relating to the First Trust Municipal High Income ETF) (the ''Municipal 2017 Release''). The Municipal 2016 Release, together with the Municipal 2017 Release, are referred to collectively as the ''Municipal 2016/2017 Release.'' In 2019, the Commission approved a proposed rule change relating to each Fund, the primary purpose of which was to modify certain representations included in the Municipal 2017 Release and the California 2017 Release. *See* Securities Exchange Act Release No. 85666 (April 16, 2019), 84 FR 16739 (April 22, 2019) (SR–NASDAQ–2019–021) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the First Trust California Municipal High Income ETF and the First Trust Municipal High Income ETF) (the ''2019 Release''). The Municipal 2016/2017 Release, together with the 2019 Release, are referred to collectively as the ''Municipal Prior Release.'' The California 2017 Release, together with the 2019 Release, are referred to collectively as the ''California Prior Release.'' The California Prior Release and the Municipal Prior Release are each, a ''Prior Release'' and collectively, the ''Prior Releases.''

[4] *See,* with respect to each Fund, Post-Effective Amendment No. 103 to Registration Statement on Form N–1A for the Trust, dated November 27, 2019 (File Nos. 333–176976 and 811–22245). The descriptions of the Funds and the Shares contained herein are based, in part, on information in the Registration Statement. First Trust Advisors L.P. (the ''Adviser'') represents that the Adviser will not implement the changes described herein until the instant proposed rule change is operative.

[5] *See, e.g.,* Securities Exchange Act Release Nos. 84381 (October 5, 2018), 83 FR 51752 (October 12, 2018) (SR–NYSEArca–2018–72) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Listing and Trading of Shares of the First Trust Ultra Short Duration Municipal ETF Under NYSE Arca Rule 8.600–E); 84379 (October 5, 2018), 83 FR 51724 (October 12, 2018) (SR–NYSEArca–2018–73) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Listing and Trading of Shares of the First Trust Short Duration Managed Municipal ETF Under NYSE Arca Rule 8.600–E); 83982 (August 29, 2018), 83 FR 45168 (September 5, 2018) (SR–NYSEArca–2018–62) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Listing and Trading of Shares of the American Century Diversified Municipal Bond ETF Under NYSE Arca Rule 8.600–E); and 71913 (April 9, 2014), 79 FR 21333 (April 15, 2014) (SR–NASDAQ–2014–019) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the Listing and Trading of the Shares of the First Trust Managed Municipal Fund of First Trust Exchange-Traded Fund III) (collectively, the ''Other Municipal Approvals'').

[6] *See* Nasdaq Rule 5735(b)(1)(B).

[7] *See infra* footnote 12 and accompanying text.

[8] *See* the California 2017 Release and the 2019 Release.

[9] *See* the Municipal 2016 Release and the 2019 Release.

[10] *See,* with respect to the California Fund, the California 2017 Release and with respect to the Municipal Fund, the Municipal 2016 Release.

[11] *See,* with respect to the California Fund, the California 2017 Release and with respect to the Municipal Fund, the Municipal 2016 Release.

[12] As noted in the 2019 Release, under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, (a) for each Fund, no component fixed income security (excluding specified U.S. government securities) would represent more than 15% of such Fund's net assets, and the five most heavily weighted component fixed income securities in each Fund's portfolio (excluding U.S. government securities) would not, in the aggregate, account for more than 25% of such Fund's net

Continued Listing Representations

For each Fund, all statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules shall constitute continued listing requirements for listing the applicable Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under the Nasdaq 5800 Series.

The Adviser represents that there would be no change to either Fund's investment objectives. Except as provided herein, with respect to each Fund, all currently effective representations (*i.e.,* representations that have not previously been modified or superseded) made in the applicable Prior Releases (collectively, the ''Prior Release Representations'') would remain unchanged, including but not limited to such currently effective representations regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules.[13] Except for the generic listing provisions of Nasdaq Rule 5735(b)(1) (the ''generic listing standards''),[14] the Funds and the Shares would continue to comply with the requirements applicable to Managed Fund Shares under Nasdaq Rule 5735.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act in general and Section 6(b)(5) of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The purpose of this proposed rule change is to delete the Average Maturity Representation in order to provide the Adviser with additional flexibility in constructing and managing each Fund's portfolio. The Exchange believes that the proposed modification would provide each Fund with greater ability to select Municipal Securities that would support such Fund's investment goals. Except as provided herein, with respect to each Fund, all currently effective Prior Release Representations would remain unchanged. Except for the generic listing standards,[15] the Funds and the Shares would continue to comply with the requirements applicable to Managed Fund Shares under Nasdaq Rule 5735.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares would continue to be listed and traded on the Exchange pursuant to Nasdaq Rule 5735. The Exchange also notes the continued listing representations set forth above. The Exchange represents that trading in the Shares would continue to be subject to the existing trading surveillances, administered by both Nasdaq and also the Financial Industry Regulatory Authority (''FINRA''), on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the deletion of the Average Maturity Representation is intended to provide each Fund with greater ability to select from Municipal Securities that would support such Fund's investment goals. The Exchange notes that the 2019 Representations would not be affected by the proposed modification. Additionally, the Exchange notes that the Other Municipal Approvals did not include a representation similar to the Average Maturity Representation and the Fixed Income GLS do not impose a comparable requirement.

In addition, a large amount of information would continue to be publicly available regarding the Funds and the Shares, thereby promoting market transparency. For example, the Intraday Indicative Value (as defined in Nasdaq Rule 5735(c)(3)), available on the Nasdaq Information LLC proprietary index data service, would continue to be widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session. On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, each Fund would continue to disclose on its website the Disclosed Portfolio (as defined in Nasdaq Rule 5735(c)(2)) that will form the basis for such Fund's calculation of net asset value (''NAV'') at the end of the business day.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that the additional flexibility to be afforded to the Adviser under the proposed rule change is intended to enhance each Fund's ability to meet its investment goals, to the benefit of investors. In addition, NAV per Share would continue to be calculated daily and each Fund's Disclosed Portfolio would continue to be made available to all

assets; (b) each Fund's portfolio of Municipal Securities would continue to be diversified among a minimum of 30 non-affiliated issuers; (c) component securities that in the aggregate account for at least 90% of the weight of each Fund's portfolio of Municipal Securities would continue to be exempted securities as defined in Section 3(a)(12) of the Act; and (d) each Fund's investments in Municipal Securities would continue to provide exposure (based on dollar amount invested) to at least 10 different industries (with no more than 25% of the value of such Fund's net assets comprised of Municipal Securities that provide exposure to any single industry). In addition, each Fund's investments in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, would continue to be limited to 15% of such Fund's net assets and, subject to certain exceptions, each Fund would not invest 25% or more of the value of its total assets in securities of issuers in any one industry. Further, with respect to the Municipal Fund, under normal market conditions, except for the initial invest-up period and periods of high cash inflows or outflows, such Fund's investments in Municipal Securities would continue to provide exposure (based on dollar amount invested) to at least 15 different states (with no more than 30% of the value of such Fund's net assets comprised of Municipal Securities that provide exposure to any single state). The foregoing representations set forth in this footnote 12 are referred to collectively as the ''2019 Representations.''

[13] The Exchange notes, however, that certain statements in the Prior Releases include references that are no longer current and has not specifically updated such statements in this filing. For example, the Municipal 2016 Release includes references to Form N–SAR (under the heading ''Availability of Information'') and a ''minimum price variation'' provision in Nasdaq Rule 5735(b)(3) (under the heading ''Trading Rules''), neither of which is currently in effect.

[14] With respect to the Municipal Fund, the generic listing standards were specifically discussed in the Municipal 2017 Release and the 2019 Release. With respect to the California Fund, the generic listing standards were specifically discussed in the California 2017 Release and the 2019 Release. The Exchange notes, however, that references to Nasdaq Rule 5735(b)(1)(B)(v) in the Municipal 2017 Release and the California 2017 Release did not reflect a change to such rule that was effected in 2019. *See* Securities Exchange Release No. 86399 (July 17, 2019), 84 FR 35446 (July 23, 2019) (SR–NASDAQ–2019–054).

[15] *See supra* note 14.

market participants at the same time. Further, investors would continue to have ready access to information regarding each Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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 rule change would provide the Adviser with additional flexibility in managing the Funds, thereby helping each Fund to achieve its investment goals. As such, it is expected that each Fund may become a more attractive investment product in the marketplace and, therefore, that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [16] and subparagraph (f)(6) of Rule 19b–4 thereunder.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–NASDAQ–2020–014 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–NASDAQ–2020–014. 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–NASDAQ–2020–014 and should be submitted on or before May 1, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–07548 Filed 4–9–20; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[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 Exchange has satisfied this requirement.

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88566; File No. SR–CboeBZX–2019–097]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, To Adopt BZX Rule 14.11(l) Governing the Listing and Trading of Exchange-Traded Fund Shares

April 6, 2020.

On November 15, 2019, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') 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, among other things, adopt new BZX Rule 14.11(l) to list and trade Exchange-Traded Fund Shares. The proposed rule change was published for comment in the **Federal Register** on November 22, 2019.[3]

On December 17, 2019, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On February 12, 2020, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety.[6] On February 20, 2020, the Commission published the proposed rule change, as modified by Amendment No. 1, for notice and comment and instituted proceedings to determine whether to approve or disapprove the proposed change, as modified by Amendment No. 1.[7] On March 20, 2020, the Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 87560 (November 18, 2019), 84 FR 64607.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 87777, 84 FR 70598 (December 23, 2019).

[6] *See infra* note 8.

[7] *See* Securities Exchange Act Release No. 88208 (February 13, 2020), 85 FR 9834.

filed Amendment No. 2 to the proposed rule change, which amended and replaced the proposed rule change, as modified by Amendment No. 1.[8] The Commission has received no comments on the proposed rule change.

The Commission is publishing this notice to solicit comments on Amendment No. 2 to the proposed rule change from interested persons, and is approving the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

I. The Exchange's Description of the Proposal, as Modified by Amendment No. 2

The Exchange proposes a rule change to adopt BZX Rule 14.11(l) to permit the listing and trading of Exchange-Traded Fund Shares that are permitted to operate in reliance on Rule 6c–11 under the Investment Company Act of 1940. The Exchange is also proposing to discontinue the quarterly reports required with respect to Managed Fund Shares listed on the Exchange pursuant to the generic listing standards under Rule 14.11(i).

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

This Amendment No. 2 to SR–CboeBZX–2019–097 amends and replaces in its entirety the proposal as amended by Amendment No. 1, which was submitted on February 12, 2020, and amended and replaced in its entirety the proposal as originally submitted on November 15, 2019. The Exchange submits this Amendment No. 1 in order to clarify certain points and add additional details to the proposal.

The Exchange proposes to add new Rule 14.11(l)[9] for the purpose of permitting the generic listing and trading, or trading pursuant to unlisted trading privileges, of Exchange-Traded Fund Shares[10] that are permitted to operate in reliance on Rule 6c–11 (''Rule 6c–11'') under the Investment Company Act of 1940 (the ''1940 Act'').[11] The Exchange is also proposing to make conforming changes to the Exchange's corporate governance requirements under Rule 14.10(e) in order to accommodate the proposed listing of Exchange-Traded Fund Shares. Finally, the Exchange is proposing to discontinue the quarterly reports required with respect to Managed Fund Shares listed on the Exchange pursuant to the generic listing standards under Rule 14.11(i). The Exchange notes that it plans to submit a separate filing related to fees applicable to ETF Shares listed on the Exchange.

The Commission recently adopted Rule 6c–11 to permit exchange-traded funds (''ETFs'') that satisfy certain conditions to operate without obtaining an exemptive order from the Commission under the 1940 Act.[12] Since the first ETF was approved by the Commission in 1992, the Commission has routinely granted exemptive orders permitting ETFs to operate under the 1940 Act because there was no ETF specific rule in place and they have characteristics that distinguish them from the types of structures contemplated and included in the 1940 Act. After such an extended period operating without a specific rule set and only under exemptive relief, Rule 6c–11 is designed to provide a consistent, transparent, and efficient regulatory framework for ETFs.[13] Exchange listing standards applicable to ETFs have been similarly adopted and tweaked over the years and the Exchange believes that, just as the Commission has undertaken a review of the 1940 Act as it is applicable to ETFs, it is appropriate to perform a similar holistic review and overhaul of Exchange listing rules. With this in mind, the Exchange submits this proposal to add new Rule 14.11(l) and certain corresponding rule changes because it believes that this proposal similarly promotes consistency, transparency, and efficiency surrounding the exchange listing process for ETF Shares in a manner that is consistent with the Act, as further described below.[14] Except as otherwise provided, the Exchange would continue to enforce all governance, disclosure, and trading rules for ETF Shares, as defined below, listed on the Exchange.

Consistent with Index Fund Shares and Managed Fund Shares listed under the generic listing standards in Rules 14.11(c) and 14.11(i), respectively, series of Exchange-Traded Fund Shares that are permitted to operate in reliance on Rule 6c–11 would be permitted to be listed and traded on the Exchange without a prior Commission approval order or notice of effectiveness pursuant to Section 19(b) of the Act.[15]

[8] Amendments No. 1 and 2 to the proposed rule change is available on the Commission's website at: *https://www.sec.gov/comments/sr-cboebzx-2019-097/srcboebzx2019097.htm.*

[9] The Exchange notes that it is proposing new Rule 14.11(l) because it has also proposed a new Rule 14.11(k) as part of another proposal. *See* Securities Exchange Act Release No. 87062 (September 23, 2019), 84 FR 51193 (September 27, 2019) (SR–CboeBZX–2019–047).

[10] As provided below, proposed Rule 14.11(l)(3)(A) provides that the term ''ETF Shares'' shall mean the shares issued by a registered open-end management investment company that: (i) Is eligible to operate in reliance on Rule 6c–11 under the Investment Company Act of 1940; (ii) issues (and redeems) creation units to (and from) authorized participants in exchange for a basket and a cash balancing amount (if any); and (iii) issues shares that it intends to list or are listed on a national securities exchange and traded at market-determined prices.

[11] 15 U.S.C. 80a–1.

[12] *See* Release Nos. 33–10695; IC–33646; File No. S7–15–18 (Exchange-Traded Funds) (September 25, 2019), 84 FR 57162 (October 24, 2019) (the ''Rule 6c–11 Release'').

[13] In approving the rule, the Commission stated that the ''rule will modernize the regulatory framework for ETFs to reflect our more than two decades of experience with these investment products. The rule is designed to further important Commission objectives, including establishing a consistent, transparent, and efficient regulatory framework for ETFs and facilitating greater competition and innovation among ETFs.'' Rule 6c–11 Release, at 57163. The Commission also stated the following regarding the rule's impact: ''We believe rule 6c–11 will establish a regulatory framework that: (1) Reduces the expense and delay currently associated with forming and operating certain ETFs unable to rely on existing orders; and (2) creates a level playing field for ETFs that can rely on the rule. As such, the rule will enable increased product competition among certain ETF providers, which can lead to lower fees for investors, encourage financial innovation, and increase investor choice in the ETF market.'' Rule 6c–11 Release, at 57204

[14] The Exchange deems ETF Shares to be equity securities, thus rendering trading in any series of ETF Shares subject to the Exchange's existing rules governing the trading of equity securities. With respect to trading in ETF Shares, all of the BZX Member obligations relating to product description and prospectus delivery requirements will continue to apply in accordance with Exchange rules and federal securities laws, and the Exchange will continue to monitor its Members for compliance with such requirements, which are not changing as a result of Rule 6c–11 under the 1940 Act.

[15] Rule 19b–4(e)(1) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') is not deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4, if the Commission has

Continued

Proposed Listing Rules

Proposed Rule 14.11(l)(1) provides that the Exchange will consider for trading, whether by listing or pursuant to unlisted trading privileges, the shares of Exchange-Traded Funds (''ETF Shares'') that meet the criteria of this Rule 14.11(l).[16]

Proposed Rule 14.11(l)(2) provides that the proposed rule would be applicable only to ETF Shares. Except to the extent inconsistent with this Rule 14.11(l), or unless the context otherwise requires, the rules and procedures of the Board of Directors shall be applicable to the trading on the Exchange of such securities. ETF Shares are included within the definition of ''security'' or ''securities'' as such terms are used in the Rules of the Exchange.

Proposed Rule 14.11(l)(2) further provides that: (A) Transactions in ETF Shares will occur throughout the Exchange's trading hours; (B) the minimum price variation for quoting and entry of orders in ETF Shares is $0.01;[17] and (C) the Exchange will implement and maintain written surveillance procedures for ETF Shares.

Proposed Rule 14.11(l)(3)(A) provides that the term ''ETF Shares'' shall mean shares of stock issued by an Exchange-Traded Fund.

Proposed Rule 14.11(l)(3)(B) provides that the term ''Exchange-Traded Fund'' has the same meaning as the term ''exchange-traded fund'' as defined in Rule 6c–11 under the Investment Company Act of 1940.

Proposed Rule 14.11(l)(3)(C) provides that the term ''Reporting Authority'' in respect of a particular series of ETF Shares means the Exchange, an institution, or a reporting service designated by the Exchange or by the exchange that lists a particular series of ETF Shares (if the Exchange is trading such series pursuant to unlisted trading privileges) as the official source for calculating and reporting information relating to such series, including, but not limited to, the amount of any dividend equivalent payment or cash distribution to holders of ETF Shares, net asset value, index or portfolio value, the current value of the portfolio of securities required in connection with issuance of ETF Shares, or other information relating to the issuance, redemption or trading of ETF Shares. A series of ETF Shares may have more than one Reporting Authority, each having different functions.[18]

Proposed Rule 14.11(l)(4) provides that the Exchange may approve a series of ETF Shares for listing and/or trading (including pursuant to unlisted trading privileges) on the Exchange pursuant to Rule 19b–4(e) under the Act, provided such series of ETF Shares is eligible to operate in reliance on Rule 6c–11 under the Investment Company Act of 1940 and must satisfy the requirements of this Rule 14.11(l) on an initial and continued listing basis.

Proposed Rule 14.11(l)(4)(A) provides that the requirements of Rule 6c–11 must be satisfied by a series of ETF Shares on an initial and continued listing basis. Such securities must also satisfy the following criteria on an initial and, except for paragraph (i) below, continued, listing basis. Further, proposed Rule 14.11(l)(4)(A) provides that: (i) For each series, the Exchange will establish a minimum number of ETF Shares required to be outstanding at the time of commencement of trading on the Exchange; (ii) if an index underlying a series of ETF Shares is maintained by a broker-dealer or fund adviser, the broker-dealer or fund adviser shall erect and maintain a ''fire wall'' around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer or fund adviser. If the investment adviser to the investment company issuing an actively managed series of ETF Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Exchange-Traded Fund's portfolio; and (iii) any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the composition, methodology, and related matters of an index underlying a series of ETF Shares, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index. For actively managed Exchange-Traded Funds, personnel who make decisions on the portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable portfolio.[19]

Proposed Rule 14.11(l)(4)(B) provides that each series of ETF Shares will be listed and traded on the Exchange subject to application of Proposed Rule 14.11(l)(4)(B)(i) and (ii). Proposed Rule 14.11(l)(4)(B)(i) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for, a series of ETF Shares under any of the following circumstances: (a) If the Exchange becomes aware that the issuer of the ETF Shares is no longer eligible to operate in reliance on Rule 6c–11 under the Investment Company Act of 1940; (b) if any of the other listing requirements set forth in this Rule 14.11(l) are not continuously maintained; (c) if, following the initial twelve month period after commencement of trading on the Exchange of a series of ETF Shares, there are fewer than 50 beneficial holders of the series of ETF Shares for 30 or more consecutive trading days; or (d) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. Proposed Rule 14.11(l)(4)(B)(ii) provides that upon termination of an investment company, the Exchange requires that ETF Shares issued in connection with

approved, pursuant to Section 19(b) of the Act, the SRO's trading rules, procedures and listing standards for the product class that would include the new derivative securities product and the SRO has a surveillance program for the product class. As contemplated by this Rule 14.11(l), the Exchange proposes new Rule 14.11(l) to establish generic listing standards for ETFs that are permitted to operate in reliance on Rule 6c–11. An ETF listed under proposed Rule 14.11(l) would therefore not need a separate proposed rule change pursuant to Rule 19b–4 before it can be listed and traded on the Exchange.

[16] To the extent that a series of ETF Shares does not satisfy one or more of the criteria in proposed Rule 14.11(l), the Exchange may file a separate proposal under Section 19(b) of the Act in order to list such series on the Exchange. Consistent with Rule 14.11(a), any of the statements or representations in that proposal regarding the index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values (as applicable), or the applicability of Exchange listing rules specified in any filing to list such series of ETF Shares shall constitute continued listing requirements for the series of ETF Shares. Further, in the event that a series of ETF Shares becomes listed under proposed Rule 14.11(l) and subsequently can no longer rely on Rule 6c–11, so long as the series of ETF Shares may otherwise rely on exemptive relief issued by the Commission, such series of ETF Shares may be listed as a series of Index Fund Shares under Rule 14.11(c) or Managed Fund Shares under Rule 14.11(i), as applicable, as long as the series of ETF Shares meets all listing requirements applicable under the applicable rule.

[17] Consistent with Exchange Rules 11.11(a)(1) and 14.11(i)(2)(B), the Exchange notes that the proposed minimum price variation is identical to the minimum price variation for Index Fund Shares and Managed Fund Shares.

[18] The Exchange notes that the definition of Reporting Authority is based on the definitions provided under Rule 14.11(c)(1)(C) and 14.11(i)(3)(D) related to Index Fund Shares and Managed Fund Shares, respectively.

[19] The proposed requirements under proposed Rule 14.11(l)(4)(A) are substantively identical to the equivalent provisions for Index Fund Shares and Managed Fund Shares under Rules 14.11(c)(3)(B)(i) and (iii), 14.11(c)(4)(C)(i) and (iii), 14.11(c)(5)(A)(i) and (iii), and 14.11(i)(7).

such entity be removed from Exchange listing.

Proposed Rule 14.11(l)(5) provides that neither the Exchange, the Reporting Authority, nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value; the current value of the portfolio of securities required to be deposited in connection with issuance of ETF Shares; the amount of any dividend equivalent payment or cash distribution to holders of ETF Shares; net asset value; or other information relating to the purchase, redemption, or trading of ETF Shares, resulting from any negligent act or omission by the Exchange, the Reporting Authority, or any agent of the Exchange, or any act, condition, or cause beyond the reasonable control of the Exchange, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission, or delay in the reports of transactions in one or more underlying securities.[20]

Proposed Rule 14.11(l)(6) provides that a security that has previously been approved for listing on the Exchange pursuant to the generic listing requirements specified in Rule 14.11(c) or Rule 14.11(i), or pursuant to the approval of a proposed rule change or subject to a notice of effectiveness by the Commission, may be considered for listing solely under this Rule 14.11(l) if such security is eligible to operate in reliance on Rule 6c–11 under the 1940 Act. At the time of listing of such security under this Rule 14.11(l), the continued listing requirements applicable to such previously-listed security will be those specified in paragraph (b) of this Rule 14.11(l). Any requirements for listing as specified in Rule 14.11(c) or Rule 14.11(i), or an approval order or notice of effectiveness of a separate proposed rule change, that differ from the requirements of this Rule 14.11(l) will no longer be applicable to such security.

The Exchange is also proposing to make two corresponding amendments to include ETF Shares in other Exchange rules. Specifically, the Exchange is also proposing: (i) To amend Rule 14.10(e)(1)(E) and Interpretation and Policy .13 to Rule 14.10 in order to add ETF Shares to a list of product types listed on the Exchange, including Index Fund Shares, Managed Fund Shares, and Managed Portfolio Shares, that are exempted from the Audit Committee requirements set forth in Rule 14.10(c)(3), except for the applicable requirements of SEC Rule 10A–3; [21] and (ii) to amend Rule 14.11(c)(3)(A)(i)(a) in order to include ETF Shares in the definition of Derivative Securities Products.

Discussion

Proposed Rule 14.11(l) is based in large part on Rules 14.11(c) and (i) related to the listing and trading of Index Fund Shares and Managed Fund Shares on the Exchange, respectively, both of which are issued under the 1940 Act and would qualify as ETF Shares after Rule 6c–11 is effective. Rule 14.11(c) and 14.11(i) are very similar, their primary difference being that Index Fund Shares are designed to track an underlying index and Managed Fund Shares are based on an actively managed portfolio that is not designed to track an index. As such, the Exchange believes that using Rules 14.11(c) and (i) (collectively, the ''Current ETF Standards'') as the basis for proposed Rule 14.11(l) is appropriate because they are generally designed to address the issues associated with ETF Shares. The only substantial differences between proposed Rule 14.11(l) and the Current ETF Standards that are not otherwise required under Rule 6c–11 are as follows: (i) Proposed Rule 14.11(l) does not include the quantitative standards applicable to a fund or an index that are included in the Current ETF Standards; and (ii) proposed Rule 14.11(l) does not include any requirements related to the dissemination of a fund's Intraday Indicative Value.[22] These differences are discussed below.

Quantitative Standards

The Exchange believes that the proposal is designed to prevent fraudulent and manipulative acts and practices because the Exchange will perform ongoing surveillance of ETF Shares listed on the Exchange in order to ensure compliance with Rule 6c–11 and the 1940 Act on an ongoing basis. While proposed Rule 14.11(l) does not include the quantitative requirements applicable to an ETF or an ETF's holdings or underlying index that are included in Rules 14.(c) and 14.11(i),[23] the Exchange believes that the manipulation concerns that such standards are intended to address are otherwise mitigated by a combination of the Exchange's surveillance procedures, the Exchange's ability to halt trading under the proposed Rule 14.11(l)(4)(B)(ii), and the Exchange's ability to suspend trading and commence delisting proceedings under proposed Rule 14.11(l)(4)(B)(i). The Exchange will also halt trading in ETF Shares under the conditions specified in Rule 11.18, ''Trading Halts Due to Extraordinary Market Volatility.'' The Exchange also believes that such concerns are further mitigated by enhancements to the arbitrage mechanism that will come from Rule 6c–11, specifically the additional flexibility provided to issuers of ETF Shares through the use of custom baskets for creations and redemptions and the additional information made available to the public through the additional daily website disclosure obligations applicable under Rule 6c–11.[24] The Exchange believes that the combination of these factors will act to keep ETF Shares trading near the value of their underlying holdings and further mitigate concerns around manipulation of ETF Shares on the Exchange without the inclusion of quantitative standards.[25] The Exchange will monitor for compliance with Rule 6c–11 in order to ensure that the continued listing standards are being met.[26] Specifically, the Exchange will review the website of each series of ETF Shares listed on the Exchange in order to ensure that the

[20] The Exchange notes that proposed Rule 14.11(l)(5) is substantively identical to the equivalent Rules for Index Fund Shares and Managed Fund Shares under Rule 14.11(c)(10) and 14.11(i)(5).

[21] The Exchange notes that these proposed changes would subject ETF Shares to the same corporate governance requirements as other open-end management investment companies listed on the Exchange.

[22] For purposes of this filing, the term ''Intraday Indicative Value'' or ''IIV'' shall mean an intraday estimate of the value of a share of each series of either Index Fund Shares or Managed Fund Shares.

[23] The Exchange notes that Rules 14.11(c) and (i) include certain quantitative standards related to the size, trading volume, concentration, and diversity of the holdings of a series of Index Fund Shares or Managed Fund Shares (the ''Holdings Standards'') as well as related to the minimum number of beneficial holders of a fund (the ''Distribution Standards''). The Exchange believes that to the extent that manipulation concerns are mitigated based on the factors described herein, such concerns are mitigated both as it relates to the Holdings Standards and the Distribution Standards.

[24] The Exchange notes that the Commission came to a similar conclusion in several places in the Rule 6c–11 Release. *See* Rule 6c–11 Release at 15–18; 60–61; 69–70; 78–79; 82–84; and 95–96.

[25] The Exchange believes that this applies to all quantitative standards, whether applicable to the portfolio holdings of a series of ETF Shares or the distribution of the ETF Shares.

[26] As noted throughout, proposed Rule 14.11(l), unlike Rule 14.11(c) and 14.11(i), does not include Holdings Standards and, as such, there will be no quantitative standards applicable by the Exchange to the portfolio holdings of a series of ETF Shares on an initial or continued listing basis.

requirements of Rule 6c–11 are being met. The Exchange will also employ numerous intraday alerts that will notify Exchange personnel of trading activity throughout the day that is potentially indicative of certain disclosures not being made accurately or the presence of other unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market. As a backstop to the surveillances described above, the Exchange also notes that Rule 14.11(a) would require an issuer of ETF Shares to notify the Exchange of any failure to comply with Rule 6c–11 or the 1940 Act.

The Exchange may suspend trading in and commence delisting proceedings for a series of ETF Shares where such series is not in compliance with the applicable listing standards or where the Exchange believes that further dealings on the Exchange are inadvisable.[27] The Exchange also notes that Rule 14.11(a) requires any issuer to provide the Exchange with prompt notification after it becomes aware of any non-compliance with proposed Rule 14.11(l), which would include any failure of the issuer to comply with Rule 6c–11 or the 1940 Act.[28]

Further, the Exchange also represents that its surveillance procedures are adequate to properly monitor the trading of the ETF Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which are currently applicable to Index Fund Shares and Managed Fund Shares, among other product types, to monitor trading in ETF Shares. The Exchange or the Financial Industry Regulatory Authority, Inc. (''FINRA''), on behalf of the Exchange, will communicate as needed regarding trading in ETF Shares and certain of their applicable underlying components with other markets that are members of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange may obtain information regarding trading in ETF Shares and certain of their applicable underlying components from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Additionally, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities that may be held by a series of ETF Shares reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). FINRA also can access data obtained from the Municipal Securities Rulemaking Board's (''MSRB'') Electronic Municipal Market Access (''EMMA'') system relating to municipal bond trading activity for surveillance purposes in connection with trading in a series of ETF Shares, to the extent that a series of ETF Shares holds municipal securities. Finally, as noted above, the issuer of a series of ETF Shares will be required to comply with Rule 10A–3 under the Act for the initial and continued listing of Exchange-Traded Fund Shares, as provided under Rule 14.10(e)(1)(E) and Interpretation and Policy .13 to Rule 14.10.[29]

The Exchange notes that it may consider all relevant factors in exercising its discretion to halt or suspend trading in a series of ETF Shares. Trading may be halted if the circuit breaker parameters in Rule 11.18 have been reached, because of other market conditions, or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which certain information about the ETF Shares that is required to be disclosed under Rule 6c–11 of the Investment Company Act of 1940 is not being made available, including specifically where the Exchange becomes aware that the net asset value with respect to a series of ETF Shares is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the net asset value is available to all market participants; [30] (2) if an interruption to the dissemination to the value of the index or reference asset on which a series of ETF Shares is based persists past the trading day in which it occurred or is no longer calculated or available; (3) trading in the securities comprising the underlying index or portfolio has been halted in the primary market(s); or (4) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

Intraday Indicative Value

As described above, proposed Rule 14.11(l) does not include any requirements related to the dissemination of an Intraday Indicative Value. Both Rule 14.11(c) and Rule 14.11(i) include the requirement that a series of Index Fund Shares and Managed Fund Shares, respectively, disseminate and update an Intraday Indicative Value at least every 15 seconds.[31] The Exchange believes that it is consistent with the Act to not require the calculation and dissemination of the Intraday Indicative Value for the same reasons enumerated in the Rule 6c–11 Release, which specifically discusses and describes why Rule 6c–11 does not require ETFs to publicly calculate and disseminate the Intraday Indicative Value,[32] and a separate Exchange proposal to eliminate the requirement to calculate and disseminate the Intraday Indicative Value for certain series of Index Fund Shares and Managed Fund Shares.[33]

As such, the Exchange believes that it is appropriate and consistent with the Act to not include a requirement for the dissemination of an IIV for a series of ETF Shares to be listed on the Exchange.

[27] Specifically, proposed Rule 14.11(l)(4)(B) provides that each series of ETF Shares will be listed and traded on the Exchange subject to application of Proposed Rule 14.11(l)(4)(B)(i) and (ii). Proposed Rule 14.11(l)(4)(B)(i) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for, a series of ETF Shares under any of the following circumstances: (a) If the Exchange becomes aware that the issuer of the ETF Shares is no longer eligible to operate in reliance on Rule 6c–11 under the Investment Company Act of 1940; (b) if any of the other listing requirements set forth in this Rule 14.11(l) are not continuously maintained; (c) if, following the initial twelve month period after commencement of trading on the Exchange of a series of ETF Shares, there are fewer than 50 beneficial holders of the series of ETF Shares for 30 or more consecutive trading days; or (d) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. Proposed Rule 14.11(l)(4)(B)(ii) provides that upon termination of an investment company, the Exchange requires that ETF Shares issued in connection with such entity be removed from Exchange listing.

[28] The Exchange notes that failure by an issuer to notify the Exchange of non-compliance pursuant to Rule 14.11(a) would itself be considered non-compliance with the requirements of Rule 14.11 and would subject the series of ETF Shares to potential trading halts and the delisting process under Rule 14.12.

[29] The Exchange notes that these proposed changes would subject ETF Shares to the same corporate governance requirements as other open-end management investment companies listed on the Exchange.

[30] The Exchange will obtain a representation from the issuer of ETF Shares that the net asset value per share for the series will be calculated daily and made available to all market participants at the same time.

[31] *See* Rules 14.11(c)(3)(C), 14.11(c)(6)(A), and 14.11(c)(9)(B)(e) related to Index Fund Shares and Rules 14.11(i)(3)(C), 14.11(i)(4)(B)(i), 14.11(i)(4)(B)(iii)(b), and 14.11(i)(4)(B)(iv) related to Managed Fund Shares.

[32] *See* Rule 6c–11 Release at 61–66.

[33] *See* Securities Exchange Act Release No. 88259 (February 21, 2020), 85 FR 11419 (February 27, 2020) (SR–CboeBZX–2020–007).

Discontinuing Quarterly Reporting for Managed Fund Shares

Finally, the Exchange is proposing to eliminate certain quarterly reporting obligations related to the listing and trading of Managed Fund Shares on the Exchange. In the order approving the Exchange's proposal to adopt generic listing standards for Managed Fund Shares,[34] the Commission noted that the Exchange had represented that ''on a quarterly basis, the Exchange will provide a report to the Commission staff that contains, for each ETF whose shares are generically listed and traded under BATS Rule 14.11(i): (a) Symbol and date of listing; (b) the number of active authorized participants (''APs'') and a description of any failure by either a fund or an AP to deliver promised baskets of shares, cash, or cash and instruments in connection with creation or redemption orders; and (c) a description of any failure by an ETF to comply with BATS Rule 14.11(i).'' [35] This reporting requirement is not specifically enumerated in Rule 14.11(i).

The Exchange has provided such information to the Commission on a quarterly basis since the MFS Approval Order was issued in 2016. The type of information provided in the reports was created to provide a window into the creation and redemption process for Managed Fund Shares in order to ensure that the arbitrage mechanism would work as expected for products that were listed pursuant to the newly approved generic listing standards. The approval of the Rule 6c–11 collapses the distinction between index funds and active funds, which the Exchange believes represents that the Commission is generally comfortable with actively managed funds, rendering the reports unnecessary. Further, because the same general types of information provided in those reports will be made available under Rule 6c–11 directly from the issuers of such securities the Exchange also believes that it is consistent with the Act to remove this reporting obligation because it will be duplicative and no longer necessary.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [36] in general and Section 6(b)(5) of the Act [37] in particular in that it is 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 Exchange believes that proposed Rule 14.11(l) is designed to prevent fraudulent and manipulative acts and practices in that the proposed rules relating to listing and trading ETF Shares on the Exchange provide specific initial and continued listing criteria required to be met by such securities. Proposed Rule 14.11(l)(4) sets forth initial and continued listing criteria applicable to ETF Shares, specifically providing that the Exchange may approve a series of ETF Shares for listing and/or trading (including pursuant to unlisted trading privileges) on the Exchange pursuant to Rule 19b–4(e) under the Act, provided such series of ETF Shares is eligible to operate in reliance on Rule 6c–11 under the Investment Company Act of 1940 and must satisfy the requirements of this Rule 14.11(l) on an initial and continued listing basis.[38] The Exchange will submit a Form 19b–4(e) for all series of ETF Shares upon being listed pursuant to Rule 14.11(l), including those series of ETF Shares that are listed under Rule 14.11(l) pursuant to proposed Rule 14.11(l)(6) and such Form 19b–4(e) will specifically note that such series of ETF Shares are being listed on the Exchange pursuant to Rule 14.11(l).

Proposed Rule 14.11(l)(4)(B) provides that each series of ETF Shares will be listed and traded on the Exchange subject to application of Proposed Rule 14.11(l)(4)(B)(i) and (ii). Proposed Rule 14.11(l)(4)(B)(i) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for, a series of ETF Shares under any of the following circumstances: (a) If the Exchange becomes aware that the issuer of the ETF Shares is no longer eligible to operate in reliance on Rule 6c–11 under the Investment Company Act of 1940; (b) if any of the other listing requirements set forth in this Rule 14.11(l) are not continuously maintained; (c) if, following the initial twelve month period after commencement of trading on the Exchange of a series of ETF Shares, there are fewer than 50 beneficial holders of the series of ETF Shares for 30 or more consecutive trading days; or (d) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. The Exchange notes that it may become aware that the issuer is no longer eligible to operate in reliance on Rule 6c–11, as described in proposed Rule 14.11(l)(4)(B)(i)(a), as a result of either the Exchange identifying non-compliance through its own monitoring process or through notification by the issuer. Proposed Rule 14.11(l)(4)(B)(ii) provides that upon termination of an investment company, the Exchange requires that ETF Shares issued in connection with such entity be removed from Exchange listing. The Exchange also notes that it will obtain a representation from the issuer of each series of ETF Shares stating that the requirements of Rule 6c–11 will be continuously satisfied and that the issuer will notify the Exchange of any failure to do so.

The Exchange further believes that proposed Rule 14.11(l) is designed to prevent fraudulent and manipulative acts and practices because of the robust surveillances in place on the Exchange as required under proposed Rule 14.11(l)(2)(C) along with the similarities of proposed Rule 14.11(l) to the rules related to other securities that are already listed and traded on the Exchange and which would qualify as ETF Shares. Proposed Rule 14.11(l) is based in large part on Rules 14.11(c) and (i) related to the listing and trading of Index Fund Shares and Managed Fund Shares on the Exchange, respectively, both of which are issued under the 1940 Act and would qualify as ETF Shares after Rule 6c–11 is effective. Rule 14.11(c) and 14.11(i) are very similar, their primary difference being that Index Fund Shares are designed to track an underlying index and Managed Fund Shares are based on an actively managed portfolio that is not designed to track an index. As such, the Exchange believes that using the Current ETF Standards as the basis for proposed Rule 14.11(l) is appropriate because they are generally designed to address the issues

[34] *See* Securities Exchange Act Release No. 78396 (July 22, 2016), 81 FR 49698 (July 28, 2016) (SR–BATS–2015–100) (the ''MFS Approval Order'').

[35] *See* MFS Approval Order at footnote 14.

[36] 15 U.S.C. 78f.

[37] 15 U.S.C. 78f(b)(5).

[38] The Exchange notes that eligibility to operate in reliance on Rule 6c–11 does not necessarily mean that an investment company would be listed on the Exchange pursuant to proposed Rule 14.11(l). To this point, an investment company that operates in reliance on 6c–11 could also be listed as a series of Index Fund Shares or Managed Fund Shares pursuant to Rule 14.11(c) or 14.11(i), respectively, and would be subject to all requirements under each of those rules. Further to this point, in the event that a series of ETF Shares listed on the Exchange preferred to be listed as a series of Index Fund Shares or Managed Fund Shares (as applicable), nothing would preclude such a series from changing to be listed as a series of Index Fund Shares or Managed Fund Shares (as applicable), as long as the series met each of the initial and continued listing obligations under the applicable rules.

associated with ETF Shares. The only substantial differences between proposed Rule 14.11(l) and the Current ETF Standards that are not otherwise required under Rule 6c–11 are as follows: (i) Proposed Rule 14.11(l) does not include the quantitative standards applicable to a fund or an index that are included in the Current ETF Standards; and (ii) proposed Rule 14.11(l) does not include any requirements related to the dissemination of a fund's Intraday Indicative Value.

Quantitative Standards

The Exchange believes that the proposal is consistent with Section 6(b)(1) of the Act [39] in that, in addition to being designed to prevent fraudulent and manipulative acts and practices, the Exchange has the capacity to enforce proposed Rule 14.11(l) by performing ongoing surveillance of ETF Shares listed on the Exchange in order to ensure compliance with Rule 6c–11 and the 1940 Act on an ongoing basis. While proposed Rule 14.11(l) does not include the quantitative requirements applicable to a fund and a fund's holdings or underlying index that are included in Rules 14.(c) and 14.11(i),[40] the Exchange believes that the manipulation concerns that such standards are intended to address are otherwise mitigated by a combination of the Exchange's surveillance procedures, the Exchange's ability to halt trading under the proposed Rule 14.11(l)(4)(B)(ii), and the Exchange's ability to suspend trading and commence delisting proceedings under proposed Rule 14.11(l)(4)(B)(i). The Exchange also believes that such concerns are further mitigated by enhancements to the arbitrage mechanism that will come from compliance with Rule 6c–11, specifically the additional flexibility provided to issuers of ETF Shares through the use of custom baskets for creations and redemptions and the additional information made available to the public through the additional daily website disclosure obligations applicable under Rule 6c–11.[41] The Exchange believes that the combination of these factors will act to keep ETF Shares trading near the value of their underlying holdings and further mitigate concerns around manipulation of ETF Shares on the Exchange without the inclusion of quantitative standards.[42] The Exchange will monitor for compliance with Rule 6c–11 in order to ensure that the continued listing standards are being met. Specifically, the Exchange plans to review the website of series of ETF Shares in order to ensure that the requirements of Rule 6c–11 are being met. The Exchange will also employ numerous intraday alerts that will notify Exchange personnel of trading activity throughout the day that is potentially indicative of certain disclosures not being made accurately or the presence of other unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market. As a backstop to the surveillances described above, the Exchange also notes that Rule 14.11(a) would require an issuer of ETF Shares to notify the Exchange of any failure to comply with Rule 6c–11 or the 1940 Act.

To the extent that any of the requirements under Rule 6c–11 or the 1940 Act are not being met, the Exchange may halt trading in a series of ETF Shares as provided in proposed Rule 14.11(l)(4)(B)(ii). Further, the Exchange may also suspend trading in and commence delisting proceedings for a series of ETF Shares where such series is not in compliance with the applicable listing standards or where the Exchange believes that further dealings on the Exchange are inadvisable.[43] The Exchange also notes that Rule 14.11(a) requires any issuer to provide the Exchange with prompt notification after it becomes aware of any non-compliance with proposed Rule 14.11(l), which would include any failure of the issuer to comply with Rule 6c–11 or the 1940 Act.[44]

Further, the Exchange also represents that its surveillance procedures are adequate to properly monitor the trading of the ETF Shares in all trading sessions and to deter and detect violations of Exchange rules. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which are currently applicable to Index Fund Shares and Managed Fund Shares, among other product types, to monitor trading in ETF Shares. The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in ETF Shares and certain of their applicable underlying components with other markets that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange may obtain information regarding trading in ETF Shares and certain of their applicable underlying components from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Additionally, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities that may be held by a series of ETF Shares reported to FINRA's TRACE. FINRA also can access data obtained from the MSRB's EMMA system relating to municipal bond trading activity for surveillance purposes in connection with trading in a series of ETF Shares, to the extent that a series of ETF Shares holds municipal securities. Finally, as noted above, the issuer of a series of ETF Shares will be required to comply with Rule 10A–3 under the Act for the initial and continued listing of Exchange-Traded Fund Shares, as provided under Rule 14.10(e)(1)(E) and Interpretation and Policy .13 to Rule 14.10.[45]

Intraday Indicative Value

As described above, proposed Rule 14.11(l) does not include any requirements related to the

[39] 15 U.S.C. 78f(b)(1).

[40] The Exchange notes that Rules 14.11(c) and (i) include certain Holdings Standards and Distribution Standards. The Exchange believes that to the extent that manipulation concerns are mitigated based on the factors described herein, such concerns are mitigated both as it relates to the Holdings Standards and the Distribution Standards.

[41] The Exchange notes that the Commission came to a similar conclusion in several places in the Rule 6c–11 Release. *See* Rule 6c–11 Release at 15–18; 60–61; 69–70; 78–79; 82–84; and 95–96.

[42] The Exchange believes that this applies to all quantitative standards, whether applicable to the portfolio holdings of a series of ETF Shares or the distribution of the ETF Shares.

[43] Specifically, proposed Rule 14.11(l)(4)(B) provides that each series of ETF Shares will be listed and traded on the Exchange subject to application of Proposed Rule 14.11(l)(4)(B)(i) and (ii). Proposed Rule 14.11(l)(4)(B)(i) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for, a series of ETF Shares under any of the following circumstances: (a) If the Exchange becomes aware that the issuer of the ETF Shares is no longer eligible to operate in reliance on Rule 6c–11 under the Investment Company Act of 1940; (b) if any of the other listing requirements set forth in this Rule 14.11(l) are not continuously maintained; (c) if, following the initial twelve month period after commencement of trading on the Exchange of a series of ETF Shares, there are fewer than 50 beneficial holders of the series of ETF Shares for 30 or more consecutive trading days; or (d) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. Proposed Rule 14.11(l)(4)(B)(ii) provides that upon termination of an investment company, the Exchange requires that ETF Shares issued in connection with such entity be removed from Exchange listing.

[44] The Exchange notes that failure by an issuer to notify the Exchange of non-compliance pursuant to Rule 14.11(a) would itself be considered non-compliance with the requirements of Rule 14.11 and would subject the series of ETF Shares to potential trading halts and the delisting process under Rule 14.12.

[45] The Exchange notes that these proposed changes would subject ETF Shares to the same corporate governance requirements as other open-end management investment companies listed on the Exchange.

dissemination of an Intraday Indicative Value. Both Rule 14.11(c) and Rule 14.11(i) include the requirement that a series of Index Fund Shares and Managed Fund Shares, respectively, disseminate and update an Intraday Indicative Value at least every 15 seconds.[46] The Exchange believes that it is consistent with the Act to not require the calculation and dissemination of the Intraday Indicative Value for the same reasons enumerated in the Rule 6c–11 Release, which specifically discusses and describes why Rule 6c–11 does not require ETFs to publicly calculate and disseminate the Intraday Indicative Value,[47] and a separate Exchange proposal to eliminate the requirement to calculate and disseminate the Intraday Indicative Value for certain series of Index Fund Shares and Managed Fund Shares.[48]

As such, the Exchange believes that it is appropriate and consistent with the Act to not include a requirement for the dissemination of an IIV for a series of ETF Shares to be listed on the Exchange.

The Exchange also believes that the proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that a large amount of information will be publicly available regarding the Funds and the Shares, thereby promoting market transparency. Quotation and last sale information for ETF Shares will be available via the CTA high-speed line. The website for each series of ETF Shares will include a form of the prospectus for the Fund that may be downloaded, and additional data relating to NAV and other applicable quantitative information, updated on a daily basis. Moreover, prior to the commencement of trading, the Exchange will inform its members in a circular of the special characteristics and risks associated with trading in the series of ETF Shares. As noted above, series of ETF Shares will not be required to publicly disseminate an IIV. The Exchange continues to believe that this proposal is consistent with the Act and is designed to promote just and equitable principles of trade and to protect investors and the public interest because the transparency that comes from daily portfolio holdings disclosure as required under Rule 6c–11 provides market participants with sufficient information to facilitate the intraday valuation of ETF Shares, rendering the dissemination of the IIV unnecessary.

The Exchange notes that it is not proposing to prohibit the dissemination of an IIV for a series of ETF Shares and believes that there could be certain instances in which the dissemination of an IIV could provide valuable information to the investing public. The Exchange proposes to leave that decision to an issuer of ETF Shares and is simply not proposing to require the dissemination of an IIV.

Based on the foregoing discussion regarding proposed Rule 14.11(l) and its similarities to and differences between the Current ETF Standards, the Exchange believes that the proposal is consistent with the Act and is designed to prevent fraudulent and manipulative transactions and that the manipulation concerns that the quantitative standards and the IIV requirements are designed to address are otherwise mitigated by the proposal and the new daily website disclosure obligations and flexibility under Rule 6c–11.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of ETF Shares in a manner that will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange believes that approval of this proposal will streamline current procedures, reduce the costs and timeline associated with bringing ETFs to market, and provide significantly greater regulatory certainty to potential issuers considering bringing ETF Shares to market, thereby enhancing competition among ETF issuers and reducing costs for investors.[49]

The Exchange also believes that the corresponding change to amend Rule 14.10(e)(1)(E) and Interpretation and Policy .13 to Rule 14.10 in order to add ETF Shares to a list of product types listed on the Exchange, including Index Fund Shares, Managed Fund Shares, and Managed Portfolio Shares, that are exempted from the Audit Committee requirements set forth in Rule 14.10(c)(3), except for the applicable requirements of SEC Rule 10A–3 because it is a non-substantive change meant only to subject ETF Shares to the same corporate governance requirements currently applicable to Index Fund Shares and Managed Fund Shares. All other corporate governance requirements that ETF Shares are not specifically exempted from will otherwise apply. The Exchange also believes that the non-substantive change to amend Rule 14.11(c)(3)(A)(i)(a) in order to include ETF Shares in the definition of Derivative Securities Products is also a non-substantive change because it is just intended to add ETF Shares to a definition that includes Index Fund Shares and Managed Fund Shares in order to make sure that ETF Shares are treated consistently with Index Fund Shares and Managed Fund Shares throughout the Exchange's rules.

Finally, the Exchange believes that eliminating the quarterly reporting requirement for Managed Fund Shares is designed to prevent fraudulent and manipulative acts and practices and, in general, to protect investors and the public interest because the report no longer serves the purpose for which it was originally intended. The type of information provided in the reports was created to provide a window into the creation and redemption process for Managed Fund Shares in order to ensure that the arbitrage mechanism would work as expected for products that were listed pursuant to the newly approved generic listing standards. The Exchange and Commission have had several years of this reporting process and no significant issues have arisen. The Exchange believes that this speaks further to the maturity of the marketplace for ETFs and, further, Rule 6c–11 collapsing the difference between Index Fund Shares and Managed Fund Shares indicates a general comfort with Managed Fund Shares that further justifies eliminating this reporting obligation. In the Rule 6c–11 Release, the Commission concluded that ''the arbitrage mechanism for existing actively managed ETFs has worked effectively with small deviations between market price and NAV per share.'' [50] The Exchange generally agrees with this conclusion and, while such quarterly reports were useful when

[46] *See* Rules 14.11(c)(3)(C), 14.11(c)(6)(A), and 14.11(c)(9)(B)(e) related to Index Fund Shares and Rules 14.11(i)(3)(C), 14.11(i)(4)(B)(i), 14.11(i)(4)(B)(iii)(b), and 14.11(i)(4)(B)(iv) related to Managed Fund Shares.

[47] *See* Rule 6c–11 Release at 61–66.

[48] *See* Securities Exchange Act Release No. 88259 (February 21, 2020), 85 FR 11419 (February 27, 2020) (SR–CboeBZX–2020–007).

[49] In approving the rule, the Commission stated that the ''rule will modernize the regulatory framework for ETFs to reflect our more than two decades of experience with these investment products. The rule is designed to further important Commission objectives, including establishing a consistent, transparent, and efficient regulatory framework for ETFs and facilitating greater competition and innovation among ETFs.'' Rule 6c–11 Release, at 57163. The Commission also stated the following regarding the rule's impact: ''We believe rule 6c–11 will establish a regulatory framework that: (1) Reduces the expense and delay currently associated with forming and operating certain ETFs unable to rely on existing orders; and (2) creates a level playing field for ETFs that can rely on the rule. As such, the rule will enable increased product competition among certain ETF providers, which can lead to lower fees for investors, encourage financial innovation, and increase investor choice in the ETF market.'' Rule 6c–11 Release, at 57204.

[50] *See* Rule 6c–11 Release at 23.

Managed Fund Shares were first able to be listed pursuant to generic listing standards, the Exchange believes that such a window into the creation and redemption process for Managed Fund Shares no longer provides useful information related to the prevention of manipulation or protection of investors which it was originally designed to provide. Further, because the same general types of information provided in those reports will be made available under Rule 6c–11 directly from the issuers of such securities the Exchange also believes that it is consistent with the Act to remove this reporting obligation because it will be duplicative and no longer necessary.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. To the contrary, the Exchange believes that the proposed rule change would enhance competition by streamlining current procedures, reducing the costs and timeline associated with bringing ETFs to market, and providing significantly greater regulatory certainty to potential issuers considering bringing ETF Shares to market, all of which the Exchange believes would enhance competition among ETF issuers and reduce costs for investors. The Exchange also believes that the proposed change would enhance competition among ETF Shares by ensuring the application of uniform listing standards.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the Act and rules and regulations thereunder applicable to a national securities exchange.[51] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(5) of the Act,[52] which requires, among other things, that the Exchange's rules 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.

A. Proposed BZX Rule 14.11(l)

As an initial matter, the Commission notes that the Exchange currently has generic listing standards for Index Fund Shares, Managed Fund Shares, and Portfolio Depositary Receipts,[53] and therefore proposed Rule 14.11(l) would not permit the Exchange to generically list any novel product types. The Commission also notes that a number of the provisions of proposed Rule 14.11(l) are substantively identical to provisions of other BZX listing rules.[54]

The Commission believes that proposed BZX Rule 14.11(l) is reasonably designed to help prevent fraudulent and manipulative acts and practices. A central qualification for listing under the proposed rule is ongoing compliance with Rule 6c–11 under the 1940 Act, which requires, among other things, ETFs to prominently disclose the portfolio holdings that will form the basis for each calculation of net asset value per share.[55] Because initial and ongoing compliance with Rule 6c–11 of the 1940 Act is a condition for listing and trading on the Exchange, the proposed rule would permit Nasdaq to list and trade shares of an investment company with a fully transparent portfolio,[56] and the Commission believes that portfolio transparency should help prevent manipulation of the price of ETF Shares.[57] Additionally, proposed BZX Rule 14.11(l) includes requirements relating to fire walls and procedures to prevent the use and dissemination of material, non-public information regarding the applicable ETF index and portfolio,[58] all such requirements of which are designed to prevent fraudulent and manipulative acts and practices.[59] The Commission specifically notes that certain of these requirements relating to such fire walls and procedures, which are substantively identical to BZX's rules governing the listing and trading of index-based and actively managed ETFs, apply in addition to what is already required under the Act and the 1940 Act and respective rules and regulations thereunder, and the Commission believes that such requirements collectively provide additional protections against the potential misuse of material, non-public information. Therefore, the Commission concludes that the proposed requirements relating to such fire walls and procedures, combined with ETF portfolio transparency and the existing requirements under the Act and 1940 Act, should help to protect against fraudulent and manipulative acts and practices under Section 6(b)(5) of the Act.

Proposed BZX Rule 14.11(l)(2)(C) requires that the Exchange implement and maintain written surveillance

[51] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[52] 15 U.S.C. 78f(b)(5).

[53] *See* BZX Rules.

[54] *See supra* notes 17, 19, and 20 and accompanying text, respectively. Additionally, the proposed definition of ''Reporting Authority'' is based on the definitions in BZX Rules 14.11(c)(1)(C) and 14.11(i)(3)(D). *See supra* note 18.

[55] *See* Rule 6c–11 Release, *supra* note 12, at 57180–81.

[56] *See supra* note 9. The Commission also noted that, with respect to ETF portfolio transparency, the disclosures are designed to promote an effective arbitrage mechanism and inform investors about the risks of deviation between market price and net asset value when deciding whether to invest in ETFs generally or in a particular ETF. *See* Rule 6c–11 Release, *supra* note 12, at 57166.

[57] *See id.* at 57169 (concluding that portfolio transparency combined with existing requirements should be sufficient to protect against certain abuses).

[58] For example, proposed BZX Rule 14.11(l)(4)(A)(ii) provides that if the index underlying a series of ETF Shares is maintained by a broker-dealer or fund adviser, the broker-dealer or fund adviser shall erect and maintain a ''fire wall'' around the personnel who have access to information concerning changes and adjustments to the index and the index will be calculated by a third party who is not a broker-dealer or fund adviser. Proposed BZX Rule 14.11(l)(4)(A)(ii) further states that if the investment adviser to an ETF is affiliated with a broker-dealer, such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to the underlying portfolio. Proposed BZX Rule 14.11(l)(4)(A)(iii) requires that any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the composition, methodology and related matters, of an index underlying a series of ETF Shares must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index. In addition, for actively managed ETFs, personnel who make decisions on the portfolio composition must be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the applicable portfolio. *See generally* proposed BZX Rule 14.11(l)(4)(A).

[59] In adopting Rule 6c–11, the Commission determined that the safeguards in the existing regulatory regime adequately address ''special concerns that self-indexed ETFs present, including the potential ability of an affiliated index provider to manipulate an underlying index to the benefit or detriment of a self-indexed ETF.'' Rule 6c–11 Release, *supra* note 12, 84 FR at 57168.

procedures for ETF Shares. The Exchange will employ its existing surveillance procedures applicable to derivative products, which are currently applicable to Index Fund Shares and Managed Fund Shares, to trading in ETF Shares, and represents that its surveillance procedures are adequate to (a) properly monitor the trading of such securities during all trading sessions and (b) deter and detect violations of Exchange rules and the applicable federal securities laws. The Exchange represents that, consistent with Section 6(b)(1) of the Act, it has the capacity to enforce proposed BZX Rule 14.11(l) by performing ongoing surveillance of ETF Shares listed on the Exchange in order to ensure compliance with Rule 6c–11 and the 1940 Act on an ongoing basis.[60] Further, the Exchange represents that it, or FINRA on behalf of the Exchange, will communicate as needed regarding trading in ETF Shares and certain of their applicable underlying components with other markets that are members of the ISG or with which BZX has in place a comprehensive surveillance sharing agreement. The Exchange represents that it will perform ongoing surveillance of ETF Shares listed on the Exchange in order to ensure compliance with Rule 6c–11 under the 1940 Act on an ongoing basis. The Exchange also notes that BZX Rule 14.11(a) requires any issuer to provide the Exchange with prompt notification after it becomes aware of any non-compliance with proposed Rule 14.11(l), which would include any failure of the issuer to comply with Rule 6c–11 or the 1940 Act.[61] Additionally, BZX plans to review the website of series of ETF Shares in order to ensure that the requirements of Rule 6c–11 are being met. Finally, proposed BZX Rule 14.11(l)(4)(B)(i)(c) requires that the Exchange commence delisting proceedings for a series of ETF Shares if, following the initial 12-month period after commencement of trading on the Exchange, there are fewer than 50 beneficial holders of such series of ETF Shares for 30 or more consecutive trading days.

Consistent with the requirement of Section 6(b)(5) of the Act[62] that the Exchange's rules be designed to remove impediments to and perfect the mechanism of a free and open market, the Exchange's rules regarding trading halts will help to ensure the maintenance of fair and orderly markets for ETF Shares. Specifically, as discussed above, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in a series of ETF Shares. BZX states that trading in ETF Shares will be halted if the circuit breaker parameters in BZX Rule 11.18 have been reached or when the Exchange becomes aware that the net asset value for a series of ETF Shares is not being disseminated to all market participants at the same time.[63] Additionally, trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in ETF Shares inadvisable. As BZX represents in the proposal, examples of such market conditions or reasons may be: (1) The extent to which certain information about the ETF Shares that is required to be disclosed under Rule 6c–11 of the 1940 Act is not being made available; (2) if an interruption to the dissemination to the value of the index or reference asset on which a series of ETF Shares is based persists past the trading day in which it occurred or is no longer calculated or available; (3) trading in the securities comprising the underlying index or portfolio has been halted in the primary market(s); or (4) in the presence of other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market. Further, BZX will employ numerous intraday alerts that will notify Exchange personnel of trading activity throughout the day that is potentially indicative of certain disclosures not being made accurately or the presence of other unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market.[64] The Exchange also may suspend trading in and commence delisting proceedings for a series of ETF Shares where such series is not in compliance with the applicable listing standards or where the Exchange believes that further dealings on the Exchange are inadvisable.

B. Discontinuance of Quarterly Reports of Generically Listed Managed Fund Shares

In support of its proposal to adopt generic listing standards for Managed Fund Shares, the Exchange proposed to submit quarterly reports to the Commission disclosing certain information.[65] These reports were designed to identify problems associated with generically listed Managed Fund Shares. In adopting Rule 6c–11 under the 1940 Act, the Commission largely eliminated prior distinctions between actively managed and index-based ETFs, and BZX does not submit quarterly reports regarding the shares of index-based ETFs that it generically lists. In addition, the Commission recognizes that, since the adoption of the Managed Fund Shares generic listing standards, the marketplace for ETFs has matured and developed, an increased number of actively managed ETFs have been listed and are trading on national securities exchanges, and market participants have become more familiar with such securities. Moreover, proposed BZX Rule 14.11(l)(2)(C) requires that the Exchange implement and maintain written surveillance procedures for ETF Shares.[66] The Exchange represents that it intends to utilize its existing surveillance procedures applicable to derivative products, which will include ETF Shares, to monitor trading in the ETF Shares, and will perform ongoing surveillance of ETF Shares listed on the Exchange to ensure compliance with Rule 6c–11 and the 1940 Act on an ongoing basis. The Commission notes that manipulation concerns are mitigated by a combination of the Exchange's surveillance procedures, BZX's ability to halt trading under proposed BZX Rule 14.11(l),[67] and the Exchange's ability to commence

[60] The Commission also finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Section 6(b)(1) of the Act (15 U.S.C. 78f(b)(1)), which requires (among other things) that a national securities exchange be organized and have the capacity to comply with its own rules. The Exchange represents that it will: (1) Monitor for compliance with Rule 6c–11 under the 1940 Act to ensure that the continued listing standards are being met; (2) review the website of series of ETF Shares to ensure that the requirements of Rule 6c–11 under the 1940 Act are being met; and (3) obtain a representation from the issuer of each series of ETF Shares that the requirements of proposed BZX Rule 14.11(l) will be satisfied and that the issuer will notify the Exchange of any failure to do so.

[61] The Exchange further represents that failure by an issuer to notify the Exchange of non-compliance pursuant to Rule 14.11(a) would itself be considered non-compliance with the requirements of BZX Rule 14.11 and would subject the series of ETF Shares to potential trading halts and the delisting process under BZX Rule 14.12.

[62] 15 U.S.C. 78f(b)(5).

[63] *See supra* note 30 and accompanying text.

[64] *See* Amendment No. 2, *supra* note 8, at 15.

[65] The information included in these reports is summarized above. *See supra* note 35 and accompanying text.

[66] Moreover, BZX Rule 14.11(i)(2)(C) requires that the Exchange implement and maintain written surveillance procedures for Managed Fund Shares.

[67] The Exchange states that it may consider all relevant factors in exercising its discretion to halt or suspend trading in a series of ETF Shares, and that it may halt trading due to market conditions that make trading in the ETF Shares inadvisable, including the following circumstances: (1) Where the Exchange becomes aware that the net asset value with respect to a series of ETF Shares is not disseminated to all market participants at the same time; and (2) if an interruption to the dissemination to the value of the index or reference asset on which a series of ETF Shares is based persists past the trading day in which it occurred or is no longer calculated or available.

delisting proceedings under proposed BZX Rule 14.11(l)(4)(i). In light of these reasons, as well as the Commission's experience with the quarterly reports, the Commission believes that this proposal is consistent with Section 6(b)(5) of the Act, and it therefore finds that it is no longer necessary for BZX to continue to submit such quarterly reports.

C. Other Related Rule Changes

The Exchange proposes to: (1) Expand the definition of ''Derivative Securities Products'' in BZX Rule 14.11(c)(3)(A)(i)(a) to include ETF Shares; and (2) exempt ETF Shares from certain corporate governance requirements by including ETF Shares among the product types enumerated in BZX Rules 14.10(e)(1)(E) and Interpretations and Policies .13 to BZX Rule 14.10.[68] The Exchange states that these changes will subject ETF Shares to the same corporate governance requirements currently applicable to Index Fund Shares and Managed Fund Shares. The Commission believes that these proposed changes simply incorporate proposed BZX Rule 14.11(l) into the existing framework of BZX's rules, and therefore finds that such changes are consistent with Section 6(b)(5) of the Act.

D. Exchange Representations

In support of this proposal, the Exchange has made the following representations:

(1) BZX deems ETF Shares to be equity securities, thus rendering trading in ETF Shares subject to the Exchange's existing rules governing the trading of equity securities.[69] The Exchange notes that ETF Shares will be subject to rules governing Exchange member disclosure obligations in connection with equities trading, and that Rule 6c–11 does not change the applicability of these Exchange rules with respect to these securities.[70]

(2) BZX will (a) monitor for compliance with Rule 6c–11 to ensure that the continued listing standards are being met; (b) review the website of series of ETF Shares to ensure that the requirements of Rule 6c–11 are being met; and (c) employ numerous intraday alerts that will notify Exchange personnel of unusual trading activity throughout the day that could be indicative of unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market.[71]

(3) BZX will obtain a representation from the issuer of ETF Shares that the net asset value for the series will be calculated daily and will be made available to all market participants at the same time.[72] BZX will also obtain a representation from the issuer of each series of ETF Shares that the requirements of Rule 6c–11 will be continuously satisfied and that the issuer will notify the Exchange of any failure to do so.[73]

(4) BZX's surveillance procedures are adequate to properly monitor the trading of the ETF Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.[74]

(5) The Exchange, or FINRA on behalf of the Exchange, will communicate as needed regarding trading in ETF Shares and certain of their applicable underlying components with other markets that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Additionally, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities that may be held by a series of ETF Shares reported to TRACE. FINRA also can access data obtained from the EMMA system relating to municipal bond trading activity for surveillance purposes in connection with trading in a series of ETF Shares, to the extent that a series of ETF Shares holds municipal securities.[75]

(6) The issuer of a series of ETF Shares will be required to comply with Rule 10A–3 under the Act for the initial and continued listing of ETF Shares, as provided under BZX Rule 14.10(e)(1)(E) and Interpretation and Policy .13 to BZX Rule 14.10.[76]

This approval order is based on all of the Exchange's representations, including those set forth above and in Amendment No. 2. For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with Sections 6(b)(1) and 6(b)(5) of the Act[77] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments to the Proposed Rule Change, as Modified by Amendment No. 2

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 2 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2019–097 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2019–097. 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,

[68] Under the current version of these rules, Index Fund Shares and Managed Fund Shares are exempted from the specified corporate governance requirements.

[69] *See supra* note 14.

[70] With respect to trading in ETF Shares, the Exchange represents that all of the BZX member obligations relating to product description and prospectus delivery requirements will continue to apply in accordance with the Exchange rules and federal securities laws, and BZX will continue to monitor its members for compliance with such requirements, which are not changing as a result of Rule 6c–11 under the 1940 Act. *See supra* note 14.

[71] *See* Amendment No. 2, *supra* note 8, at 15. The Exchange also notes that BZX Rule 14.11(a) would require an issuer of ETF Shares to notify BZX of any failure to comply with Rule 6c–11 or the 1940 Act. *See id.* The Exchange notes that failure by an issuer to notify the Exchange of non-compliance pursuant to Rule 14.11(a) would itself be considered non-compliance with the requirements of Rule 14.11 and would subject the series of ETF Shares to potential trading halts and the delisting process under Rule 14.12. *See id.* at 16, n.22.

[72] *See id.* at 18, n.24.

[73] *See id.* at 22.

[74] *See id.* at 16.

[75] *See id.* at 16–17.

[76] The Exchange also notes that these proposed changes would subject ETF Shares to the same corporate governance requirements as other open-end management investment companies listed on the Exchange. *See id.* at 17.

[77] 15 U.S.C. 78f(b)(1) and 15 U.S.C. 78f(b)(5), respectively.

Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2019–097, and should be submitted on or before May 1, 2020.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 2

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 2, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 2 in the **Federal Register**. In Amendment No. 2, the Exchange (among other things): (1) Modified the circumstances in which it will consider suspending trading in a series of ETF Shares; (2) broadened its undertakings with respect to ensuring compliance with the proposed generic listing standard; (3) clarified that ETF Shares would be subject to all Exchange rules applicable to equities trading, including rules governing Exchange member disclosure obligations; and (4) clarified the applicability of certain current listing rules in light of proposed BZX Rule 14.11(l). Amendment No. 2 also provides other clarifications and additional information in support of the proposed rule change. These changes, as well as additional information in Amendment No. 2, assisted the Commission in finding that the proposal is consistent with the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[78] to approve the proposed rule change, as modified by Amendment No. 2, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[79] that the proposed rule change (SR–CboeBZX–2019–097), as modified by Amendment No. 2, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[80]

J. Matthew DeLesDernier,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88572; File No. SR–NYSE–2020–30]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Waive the Application of Certain of the Shareholder Approval Requirements in Section 312.03 of the NYSE Listed Company Manual Through June 30, 2020 Subject to Certain Conditions

April 6, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 3, 2020, New York Stock Exchange LLC (''NYSE'' 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

The Exchange proposes to waive through and including June 30, 2020 the application of certain of the shareholder approval requirements set forth in Section 312.03 of the NYSE Listed Company Manual (''Manual'') subject to certain conditions. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The U.S. and global economies have experienced unprecedented disruption as a result of the ongoing spread of COVID–19, including severe limitations on companies' ability to operate their businesses, dramatic market declines and volatility in the U.S. and global equity markets, and severe disruption in the credit markets. The Exchange believes that it is likely that many listed companies will have urgent liquidity needs in the coming months due to lost revenues and maturing debt obligations. In those circumstances, listed companies will need to access additional capital that may not be available in the public equity or credit markets. When similar conditions existed after the financial crisis of 2008–09, the Exchange observed that many companies sought capital by selling significant amounts of equity in private placement transactions to a single investor or small group of investors, in many cases limited to or including existing major shareholders in the company. The Exchange notes that companies raising capital in that manner at that time were often limited by the NYSE's shareholder approval requirements with respect to the size and structure of the transactions they were able to undertake.

Section 312.03 of the Manual, which requires listed companies to acquire shareholder approval prior to certain kinds of equity issuances, imposes significant limitations on the ability of a listed company to engage in the sort of large private placement transaction described above. The most important limitations are as follows:

• *Issuance to a Related Party.* Subject to an exception for early stage companies set forth therein, Section 312.03(b) of the Manual requires shareholder approval of any issuance to a director, officer or substantial security holder[4] of the company (each a

[78] 15 U.S.C. 78s(b)(2).

[79] *Id.*

[80] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] For purposes of Section 312.03(b), Section 312.04(e) provides that: ''An interest consisting of less than either five percent of the number of shares of common stock or five percent of the voting power

Continued

''Related Party'') or to an affiliate of a Related Party [5] if the number of shares of common stock to be issued, or if the number of shares of common stock into which the securities may be convertible or exercisable, exceeds either 1% of the number of shares of common stock or 1% of the voting power outstanding before the issuance. A limited exception permits cash sales to Related Parties and their affiliates that meet a market price test set forth in the rule (the ''Minimum Price'') [6] and that relate to no more than 5% of the company's outstanding common stock. However, this exception may only be used if the Related Party in question has Related Party status solely because it is a substantial security holder of the company.

• *Transactions of 20% or More.* Section 312.03(c) of the Manual requires shareholder approval of any transaction relating to 20% or more of the company's outstanding common stock or 20% of the voting power outstanding before such issuance other than a public offering for cash. Section 312.03(c) includes an exception for transactions involving a cash sale of the company's securities that comply with the Minimum Price requirement and also meet the following definition of a ''bona fide private financing,'' as set forth in Section 312.04(g): ''Bona fide private financing'' refers to a sale in which either:

○ A registered broker-dealer purchases the securities from the issuer with a view to the private sale of such securities to one or more purchasers; or

○ the issuer sells the securities to multiple purchasers, and no one such purchaser, or group of related purchasers, acquires, or has the right to acquire upon exercise or conversion of the securities, more than five percent of the shares of the issuer's common stock or more than five percent of the issuer's voting power before the sale.''

The Exchange expects that certain companies during the course of the current unusual economic and market conditions will urgently need to obtain new capital by selling equity securities in private placements.

In many cases, such transactions may involve sales to existing investors in the company or their affiliates that would exceed the applicable 1% and 5% limits of Section 312.03(b). Given the extraordinary nature of the current circumstances, the Exchange proposes a partial waiver of the application of Section 312.03(b) for the period as of the date of this filing through and including June 30, 2020, with the waiver specifically limited to transactions that involve the sale of the company's securities for cash at a price that meets the Minimum Price requirement as set forth in Section 312.04.[7] In addition, to qualify for this waiver, a transaction must be reviewed and approved by the company's audit committee or a comparable committee comprised solely of independent directors.

This waiver will not be applicable to any transaction involving the stock or assets of another company where any director, officer or substantial security holder of the company has a 5% or greater interest (or such persons collectively have a 10% or greater interest), directly or indirectly, in the company or assets to be acquired or in the consideration to be paid in the transaction or series of related transactions and the present or potential issuance of common stock, or securities convertible into or exercisable for common stock, could result in an increase in outstanding common shares or voting power of 5% or more (*i.e.,* a transaction which would require shareholder approval under NASDAQ Marketplace Rule 5635(a)). Specifically, the proposed waiver will not be applicable to a sale of securities by a listed company to any person subject to the provisions of Section 312.03(b) in a transaction, or series of transactions, whose proceeds will be used to fund an acquisition of stock or assets of another company where such person has a direct or indirect interest in the company or assets to be acquired or in the consideration to be paid for such acquisition.

The effect of the above-described proposed waiver would be to allow companies to sell their securities to Related Parties and other persons subject to Section 312.03(b) [8] without complying with the numerical limitations of that rule, as long as the sale is in a cash transaction that meets the Minimum Price requirement and also meets the other requirements noted above. As provided by Section 312.03(a), any transaction benefitting from the proposed waiver will still be subject to shareholder approval if required under any other applicable rule, including the equity compensation requirements of Section 303A.08 and the change of control requirements of Section 312.03(d).

Existing large investors are often the only willing providers of much-needed capital to companies undergoing difficulties and the Exchange believes that it is appropriate to increase companies' flexibility to access this source of capital for a limited period. The Exchange notes that, as a result of the proposed waiver, the Exchange's application of Section 312.03(b) will be consistent with the application of NASDAQ Marketplace Rule 5635(a) [9] to sales of a listed company's securities to related parties.

Many private placement transactions under the current market conditions may also exceed the 20% threshold established by Section 312.03(c). Therefore, given the extraordinary nature of the current circumstances, the Exchange also proposes to waive through and including June 30, 2020, for purposes of the bona fide financing exception to the 20% requirement, the 5% limitation for any sale to an individual investor in a bona fide private financing pursuant to Section 312.03(c) and to permit companies to undertake a bona fide private financing during that period in which there is only a single purchaser. As provided by Section 312.03(a), any transaction benefitting from the proposed waiver will still be subject to shareholder approval if required under any other applicable rule, including the equity compensation requirements of Section 303A.08 and the change of control requirements of Section 312.03(d). Any transaction benefitting from this waiver must be a sale of the company's securities for cash at a price that meets the Minimum Price requirement.

The effect of this proposed waiver would be that a listed company would

outstanding of a company or entity shall not be considered a substantial interest or cause the holder of such an interest to be regarded as a substantial security holder.''

[5] Under Section 312.03 of the Manual, a ''Related Party'' includes ''(1) a director, officer or substantial security holder of the company (each a ''Related Party''); (2) a subsidiary, affiliate or other closely-related person of a Related Party; or (3) any company or entity in which a Related Party has a substantial direct or indirect interest;''

[6] Section 312.04(i) Defines the ''Minimum Price'' as follows: ''Minimum Price'' means a price that is the lower of: (i) The Official Closing Price immediately preceding the signing of the binding agreement; or (ii) the average Official Closing Price for the five trading days immediately preceding the signing of the binding agreement.

Section 312.04(j) defines ''Official Closing Price'' as follows: ''Official Closing Price'' of the issuer's common stock means the official closing price on the Exchange as reported to the Consolidated Tape immediately preceding the signing of a binding agreement to issue the securities. For example, if the transaction is signed after the close of the regular session at 4:00 p.m. Eastern Standard Time on a Tuesday, then Tuesday's official closing price is used. If the transaction is signed at any time between the close of the regular session on Monday and the close if the regular session on Tuesday, then Monday's official closing price is used.

[7] *See* supra note 6.

[8] *See* supra note 5.

[9] If a company is raising capital through a transaction, or series of transaction, via the waiver, they cannot use such capital to fund an acquisition.

be exempt from the shareholder approval requirement of Section 312.03(c) in relation to a private placement transaction regardless of its size or the number of participating investors or the amount of securities purchased by any single investor, provided that the transaction is a sale of the company's securities for cash at a price that meets the Minimum Price requirement. If any purchaser in a transaction benefiting from this waiver is a Related Party or other person subject to Section 312.03(b), such transaction must be reviewed and approved by the company's audit committee or a comparable committee comprised solely of independent directors. The Exchange notes that, as a result of the proposed waiver, the Exchange's application of Section 312.03(c) will be consistent with the application of NASDAQ Marketplace Rule 5635(c) with respect to private placements relating to 20% or more of a company's common stock or voting power outstanding before such transaction.[10]

The Exchange notes that these temporary emergency waivers would simply provide NYSE listed companies with the flexibility on a temporary emergency basis to consummate transactions without shareholder approval that would not require shareholder approval under the rules of the NASDAQ Stock Market, as the specific limitations the Exchange is proposing to waive do not exist in the applicable NASDAQ rules.[11]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect the public interest and the interests of investors, and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As a result of market and general economic disruption related to the ongoing spread of the COVID–19 virus, certain listed companies may experience urgent liquidity needs that they are unable to meet by raising funds in the public equity or credit markets. The proposed rule change is designed to provide temporary relief from certain of the NYSE's shareholder approval requirements in relation to stock issuances to provide companies with additional flexibility to raise funds by selling equity in private placement transactions during the current extraordinary market and economic conditions provided such transactions meet certain conditions, such as the Minimum Price as defined in Section 312.04(i). The proposed waivers are consistent with the protection of investors because any transaction benefiting from the waivers will not, in the Exchange's view, be dilutive to the company's existing shareholders as it will be subject to a minimum market price requirement and because the audit committee or a comparable committee comprised solely of independent directors will review and approve any transaction benefitting from a waiver that involves a Related Party or affiliates of a Related Party. In addition, as provided by Section 312.03(a), any transaction benefitting from the proposed waiver will still be subject to shareholder approval if required under any other applicable rule, including the equity compensation requirements of Section 303A.08 and the change of control requirements of Section 312.03(d). All companies listed on the Exchange would be eligible to take advantage of the proposed temporary waivers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to provide temporary relief from certain of the NYSE's shareholder approval requirements in relation to stock issuances to provide companies with additional flexibility to raise funds by selling equity in private placement transactions during the current extraordinary market and general economic conditions. In addition, the proposed waivers will simply temporarily conform the treatment of transactions benefitting from the waivers to their treatment under the comparable NASDAQ rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[14] and Rule 19b–4(f)(6) thereunder.[15] 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[16] 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 19b–4(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 Exchange believes that waiver of the operative delay would be consistent with the protection of investors and the public interest because, in the Exchange's view, the market and general economic disruption caused by the global spread of the COVID–19 virus may give rise to companies experiencing urgent liquidity needs which they may need to meet by undertaking transactions that would benefit from the proposed relief. In support of its request to waive the 30-day operative delay, the

[10] *See* supra note 9 which also applies to the waivers available under Section 312.03(c).

[11] *See* NASDAQ Marketplace Rule 5635, including specifically subsections (a) and (c) thereof.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the five business day notification requirement for this proposed rule change.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

Exchange stated its belief that the proposed waiver does not give rise to any novel investor protection concerns, as the proposed rule change conforms the NYSE's shareholder approval requirements temporarily to those of NASDAQ and would not permit any transactions without shareholder approval that are not permitted on another exchange. In addition, the Exchange stated that all transactions utilizing the waiver would have to satisfy the Minimum Price requirement contained in the rule [20] and be reviewed and approved by the issuer's audit committee or comparable committee of the board comprised entirely of independent directors if any transactions benefitting from the waiver involve a Related Party or affiliates of a Related Party, as described above.[21] Furthermore, the Exchange has stated that, as provided by Section 312.04(a) of the Manual, any transaction benefitting from the proposed waiver will still be subject to shareholder approval if required under any other applicable rule, including the equity compensation requirements of Section 303A.08 of the Manual and the change of control requirements of Section 312.03(d) of the Manual. The Exchange also noted that the proposed waivers are temporary in nature and will only be applied through and including June 30, 2020. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protections of investors and the public interest. According, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[22]

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) [23] 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–NYSE–2020–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2020–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2020–30 and should be submitted on or before May 1, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–07557 Filed 4–9–20; 8:45 am]

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[20] The Commission notes that the Minimum Price is related to minimum market price requirements as defined above. *See supra* note 6.

[21] The Commission notes that, as described in the purpose section above, all transactions utilizing the waiver for purposes of Section 312.03(b) would be subject to review and approval by an audit committee or comparable body of independent directors. As to transactions utilizing the temporary waiver under Section 312.03(c) all transactions involving Related Parties or other persons subject to Section 312.03(b), as described above, must be reviewed and approved by the company's audit committee or a comparable committee comprised solely of independent directors.

[22] For purposed 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).

[23] 15 U.S.C. 78s(b)(2)(B).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88570; File No. SR–CboeBYX–2020–011]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Expand the Trading Hours Applicable to Managed Portfolio Shares To Include All Trading Sessions

April 6, 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 31, 2020, Cboe BYX Exchange, Inc. (''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') proposes to expand the trading hours applicable to Managed Portfolio Shares to include all trading sessions instead of just Regular Trading Hours.[3] The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] As defined in Rule 1.5(w), the term ''Regular Trading Hours'' means the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

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 adopted new Rule 14.11 for the purpose of permitting trading, pursuant to unlisted trading privileges,[4] of Managed Portfolio Shares, which are securities issued by an actively managed open-end management investment company,[5] on January 21, 2020.[6] Rule 14.11(b)(2) currently provides that transactions in Managed Portfolio Shares will occur only during Regular Trading Hours. On March 23, 2020, Cboe BZX Exchange, Inc. (''BZX''), the listing market for Managed Portfolio Shares, amended its rules to allow Managed Portfolio Shares to trade during all sessions.[7] Accordingly, the Exchange is now proposing to change rule 14.11(b)(2) in order to allow for trading in Managed Portfolio Shares during all trading sessions on the Exchange.

The proposed amendment would allow trading in Managed Portfolio Shares during all sessions including the Early Trading Session,[8] the Pre-Opening Session,[9] Regular Trading Hours, and the After Hours Trading Session.[10] The Exchange notes that Managed Portfolio Shares are currently the only product-type that is not available for trading during all trading sessions on the Exchange. As such, this proposal would allow Managed Portfolio Shares to be traded, pursuant to unlisted trading privileges, on the Exchange in a manner identical to all other products traded on the Exchange.

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.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] 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.

In particular, the Exchange believes that allowing Managed Portfolio Shares to trade during all trading sessions on the Exchange will remove impediments to and perfect a national market system by reducing the complexity and potential investor confusion that could be associated with limiting the trading hours for one product type.

Furthermore, the proposal is consistent with a recent changed made by the listing market for Managed Portfolio Shares, BZX, and thus would eliminate complexity and potential investor confusion related to which platforms are offering trading in Managed Portfolio Shares at different times of the day.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change, rather, will facilitate the trading of Managed Portfolio Shares in a manner that is consistent with other product types traded on the Exchange as well as on other trading platforms, enhancing competition among market participants, product types, and platforms, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6) [15] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] 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

[4] As noted in Exchange Rule 14.1(a), the Exchange does not list any Equity Securities, as defined in Rule 14.1(a). Therefore, the provisions of Rules 14.2 through 14.11 only allow the trading of such Equity Securities pursuant to unlisted trading privileges.

[5] As defined in Rule 14.11(c)(1), the term ''Managed Portfolio Share'' means a security that (a) represents an interest in an investment company registered under the Investment Company Act of 1940 (''Investment Company'') organized as an open-end management investment company, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a Creation Unit (as defined in Rule 14.11(c)(6)), or multiples thereof, in return for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value and delivered to the Authorized Participant (as defined in the Investment Company's Form N–1A filed with the Commission) through a Confidential Account; (c) when aggregated into a Redemption Unit (as defined in Rule 14.11(c)(7)), or multiples thereof, may be redeemed for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value delivered to the Confidential Account (as defined in Rule 14.11(c)(4))for the benefit of the Authorized Participant; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.

[6] *See* Securities Exchange Act Release No. 88112 (February 3, 2020), 85 FR 7352 (February 7, 2020) (SR–CboeBYX–2020–003).

[7] *See* Securities Exchange Act Release No. 88468 (March 25, 2020) 85 FR 17908 (March 31, 2020) (SR–CboeBZX–2020–028).

[8] As defined in Rule 1.5(ee), the term ''Early Trading Session'' shall mean the time between 7:00 a.m. and 8:00 a.m. Eastern Time.

[9] As defined in Rule 1.5(r), the term ''Pre-Opening Session'' shall mean the time between 8:00 a.m. and 9:30 a.m. Eastern Time.

[10] As defined in Rule 1.5(c), the term ''After Hours Trading Session'' shall mean the time between 4:00 p.m. and 8:00 p.m. Eastern Time.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay would allow trading of Managed Portfolio Shares on the Exchange during all trading sessions as soon as possible, making the treatment of Managed Portfolio Shares consistent with all other product types as well as the listing market, and reducing confusion and complexity associated with Managed Portfolio Shares. In addition, the Exchange states that the proposal raises no novel or unique issues in that it would allow Managed Portfolio Shares to trade in a manner identical to all other products traded on the Exchange and consistent with the exemptive relief granted by the Commission. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–CboeBYX–2020–011 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBYX–2020–011. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBYX–2020–011 and should be submitted on or before May 1, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

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[17] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88569; File No. SR–CboeEDGX–2020–015]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule

April 6, 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 April 1, 2020, Cboe EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'' or ''EDGX Equities'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend its fee 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://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule to add an additional Retail Volume Tier. Additionally, the Exchange proposes to eliminate fee code ''PR'' [3] from the Standard Rates table as all other references to fee code PR were removed from the Exchange's fee schedule on February 3, 2020.[4] The Exchange proposes to implement the proposed changes to its fee schedule on April 1, 2020.

The Exchange first notes that it operates in a highly-competitive market

[3] Prior to February 3, 2020, fee code PR represented orders that removed liquidity from EDGX using the ROUQ routing strategy.

[4] *See* Securities Exchange Act Release No. 88154 (February 7, 2020) 85 FR 8327 (February 13, 2020) (SR–CboeEDGX–2020–006).

in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 13 registered and operational equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act, to which market participants may direct their order flow. Based on publicly available information,[5] no single registered equities exchange has more than 20% of the market share. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow.

The Exchange operates a ''Maker-Taker'' model whereby it pays credits to Members that add liquidity and assesses fees to those that remove liquidity. The Exchange's fee schedule sets forth the standard rebates and fees applied per share for orders that provide and remove liquidity, respectively. Particularly, for securities at or above $1.00, the Exchange provides a standard rebate of $0.00170 per share for orders that add liquidity and assesses a fee of $0.00270 per share for orders that remove liquidity. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

In response to the competitive environment, the Exchange offers tiered pricing that provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides incremental incentives for Members to strive for higher or different tier levels by offering increasingly higher discounts or enhanced benefits for satisfying increasingly more stringent criteria or different criteria. For example, pursuant to footnote 3 of the fee schedule, the Exchange currently offers a Retail Volume Tier that provides Members with an enhanced rebate of $0.0037 for liquidity adding orders that yield fee code ''ZA'',[6] which generally has a rebate of $0.00320. To qualify for the Retail Volume Tier, a Member must add retail order ADV[7] (*i.e.,* yielding fee code ZA) of greater than or equal to 0.50% of the TCV.[8] Therefore, the Retail Volume Tier is designed to encourage Members that provide liquidity adding retail orders on the Exchange to increase their order flow, thereby contributing to a deeper and more liquid market to the benefit of all market participants.

The Exchange now proposes to add an additional Retail Volume Tier, Tier 1, and to rename the existing Retail Volume Tier to Tier 2. Proposed Tier 1 would provide an enhanced rebate of $0.0034 for liquidity adding orders that yield fee code ''ZA''. To qualify for proposed Tier 1, a Member must (1) have retail Step-Up Add TCV[9] from February 2020 of equal to or greater than 0.05%, and (2) add retail order ADV (*i.e.,* yielding fee code ZA) of equal to or greater than 0.20% of the TCV. In contrast to the existing Retail Volume Tier, under the proposed Tier 1 Members must satisfy a lower retail order ADV as a percentage of TCV and must also satisfy the Step-Up Add TCV threshold, which is designed to encourage growth (*i.e.,* Members must increase their relative liquidity each month over a predetermined baseline (in this case the month being February 2020)). Overall, the proposed criteria are designed to encourage Members to increase their order flow, thereby contributing to a deeper and more liquid market, which benefits all market participants and provides greater execution opportunities on the Exchange. The Exchange believes that this benefits all Members by enhancing overall market quality and contributing towards a robust and well-balanced market ecosystem. The Exchange notes that the proposed tier is available to all Retail Member Organizations (''RMOs'') and is competitively achievable for all RMOs that submit liquidity adding retail order flow, in that, all firms that submit the requisite liquidity adding retail order flow could compete to meet the tier.

Additionally, the Exchange proposes to eliminate fee code ''PR'' from the Standard Rates table of the Exchange's fee schedule. The PR fee code was eliminated in all other places from the Exchange's fee schedule effective February 2, 2020;[10] however, fee code PR was inadvertently not removed from the Standard Rates table. As such, the Exchange is now seeking to eliminate fee code PR from the Standard Rates table.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[11] in general, and furthers the requirements of Section 6(b)(4),[12] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient.

In particular, the Exchange believes the proposed amendment to add an additional Retail Volume Tier is reasonable because it provides an additional opportunity for Members to receive an enhanced rebate by means of liquidity-adding retail orders. The Exchange notes that relative volume-based incentives and discounts have been widely adopted by other exchanges,[13] and are reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value of an exchange's market quality, and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns.

Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon Members achieving certain volume and/or growth thresholds. These competing pricing schedules, moreover, are presently comparable to those that the

[5] *See* Cboe Global Markets, U.S. Equities Market Volume Summary (March 26, 2020), available at *https://markets.cboe.com/us/equities/market_statistics/*. This market share percentage is based on a Month-to-Date volume summary.

[6] Fee code ''ZA'' is associated with retail orders that remove [sic] liquidity.

[7] ''Average Daily Volume'' or ''ADV'' means average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADV is calculated on a monthly basis.

[8] ''Total Consolidated Volume'' or ''TCV'' means consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[9] ''Step-Up Add TCV'' means Average Daily Add Volume (''ADAV'') as a percentage of TCB [sic] in the relevant baseline month subtracted from current ADAV as a percentage of TCV.

[10] *See supra* note 3.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

[13] *See* Nasdaq, Price List, Rebate to Add Displayed Designated Retail Liquidity.

Exchange provides, including the pricing of comparable tiers.[14]

Moreover, the Exchange believes the proposed Retail Volume Tier is a reasonable means to encourage Members to grow their overall liquidity adding retail order flow to the Exchange based on increasing their daily total added retail order ADV above a percentage of the TCV. Particularly, the Exchange believes that adopting an additional Retail Volume Tier based on a Member's liquidity adding retail orders will encourage retail order liquidity providing Members to provide for a deeper, more liquid market, and, as a result, increased execution opportunities at improved price levels and, thus, overall order flow. The Exchange believes that these increases will benefit all Members by contributing towards a robust and well-balanced market ecosystem. Increased overall order flow benefits all investors by deepening the Exchange's liquidity pool, providing greater execution incentives and opportunities, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. The proposed enhanced rebate per share amount also does not represent a significant departure from the rebates currently offered, or required criteria, under the Exchange's existing Retail Volume Tier. For example, the rebate provided under the existing Retail Volume Tier, for which, as stated, a Member must have a daily volume add retail order ADV of 0.50% or greater than the TCV, is $0.0037 per share. In other words, under this tier, Members receive an enhanced rebate from the standard $0.0032 rebate for orders yielding fee code ''ZA''. Therefore, the proposed enhanced rebate under Tier 1 ($0.0034) is comparable to the enhanced rebate currently offered under the Retail Volume Tier.

The Exchange believes that the proposal represents an equitable allocation of fees and is not unfairly discriminatory because all RMOs are eligible for the proposed Retail Volume Tier, and would have the opportunity to meet the proposed Tier 1 criteria and receive the proposed enhanced rebate if such criteria is met. The proposed tier is designed as an incentive to any and all RMOs interested in meeting the tier criteria to submit additional liquidity adding retail order flow to achieve the proposed discount. Without having a view of activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any RMOs qualifying for this tier. While the proposed tier is only applicable to RMOs, the Exchange does not believe it is discriminatory as the Exchange offers similar rebates to non-RMO order flow.[15] While the Exchange has no way of predicting with certainty how the proposed tier will impact RMO activity, the Exchange anticipates that at up to three RMOs will be able to compete for and reach the proposed tier. The Exchange also notes that the proposed tier will not adversely impact any RMO's pricing or their ability to qualify for other rebate tiers. Rather, should a RMO not meet the proposed criteria, the Member will merely not receive an enhanced rebate. Furthermore, the proposed fee would uniformly apply to all RMOs that meet the required criteria under the proposed Retail Volume Tier.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed addition of another Retail Volume Tier would encourage the submission of additional liquidity adding retail order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [16]

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed Retail Volume Tier change applies to all RMOs equally in that all RMOs are eligible for the proposed tier, have a reasonable opportunity to meet the tier's criteria and will all receive the enhanced rebate if such criteria is met. Additionally the proposed change is designed to attract additional order flow to the Exchange. The Exchange believes that the modified tier criteria would incentivize market participants to direct liquidity adding retail orders and, as a result, executable order flow and improved price transparency, to the Exchange. Greater overall order flow and pricing transparency benefits all market participants on the Exchange by providing more trading opportunities, enhancing market quality, and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem, which benefits all market participants.

The Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purpose of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 12 other equities exchanges, and off-exchange venues and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 20% of the market share.[17] Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [18] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission*, the D.C. Circuit stated as follows:''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S.

[14] *See id.* Nasdaq offer rebates ranging from $0.00325 up to $0.0033 for Add Displayed Designated Retail Liquidity.

[15] *See e.g.,* the Add Volume Tiers in the Exchange's Fee Schedule which provides an enhanced rebate to all Members that add liquidity meeting certain criteria.

[16] Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

[17] *See supra* note 4.

[18] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . ''.[19] Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and paragraph (f) of Rule 19b–4 [21] 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 No. SR–CboeEDGX–2020–015 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. SR–CboeEDGX–2020–015. 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 No. SR–CboeEDGX–2020–015, and should be submitted on or before May 1, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–07553 Filed 4–9–20; 8:45 am]

BILLING CODE 8011–01–P

[19] *NetCoalition* v. *SEC*, 615 F.3d 525, 539 (DC Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting; Cancellation

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 85 FR 19181 and 85 FR 19184, April 6, 2020.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Wednesday, April 8, 2020 at 2:00 p.m.

CHANGES IN THE MEETING: The Closed Meeting scheduled for Wednesday, April 8, 2020 at 2:00 p.m., has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: April 8, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–07695 Filed 4–8–20; 11:15 am]

BILLING CODE 8011–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36373]

Atlantic Railways Co. LLC, d/b/a Atlantic Railways—Change in Operator Exemption—Foxville and Northern Railroad Company, LLC

Atlantic Railways Co. LLC, d/b/a Atlantic Railways (ATL), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to permit ATL to acquire from Badin Business Park LLC (BBP) [1] by assignment of lease and to operate approximately 11.11 miles of rail line from milepost WF–0.0 in Halls Ferry Junction, to milepost WF–11.11 in Badin, all in Stanly County, N.C. (the Line).[2] ATL states that it intends to interchange traffic with Winston Salem South Bound Railroad (WSSB) at milepost WF–5.90 in Whitney.

ATL states that it anticipates entering into a lease assignment agreement with BBP on or about March 20, 2020, and an interchange agreement with WSSB upon obtaining operating authority.

ATL certifies that the transaction involves no provision or agreement that would limit future interchange with a third-party connecting carrier. ATL certifies that its projected annual revenues as a result of this transaction will not result in its becoming a Class II or Class I rail carrier and further certifies that its projected annual revenues will not exceed $5 million. Under 49 CFR 1150.32(b), a change in operator requires that notice be given to shippers. By supplement filed March 25, 2020, ATL certifies that notice of the change in operator was served on all shippers affected by this transaction.

[1] ATL states that BBP is a wholly owned subsidiary of Alcoa, Inc., and that the Line was constructed to support operations for Alcoa, Inc.

[2] The verified notice states that the Line was previously leased and operated by Foxville and Northern Railroad Company LLC (FN), *see Foxville & N. R.R.—Lease & Operation Exemption—Badin Bus. Park, LLC,* FD 36151 (STB served Aug. 9, 2018), and that FN consents to the assignment to ATL.

The transaction may be consummated on or after April 24, 2020, the effective date of the exemption (30 days after the verified notice was filed).[3]

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than April 17, 2020 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36373, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on ATL's representative, John E. Elkin, President, Atlantic Railways Co. LLC, P.O. Box 577, Pelion, SC 29123.

According to ATL, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(1).

Board decisions and notices are available at *www.stb.gov.*

Decided: April 6, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2020–07567 Filed 4–9–20; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusion Extensions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of product exclusion extensions.

SUMMARY: Effective July 6, 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $34 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The U.S. Trade Representative initiated the exclusion process in July 2018 and, to date, has granted ten sets of exclusions under the $34 billion action. The third set of exclusions was published in April 2019 and will expire in April 2020. On February 5, 2020, the U.S. Trade Representative established a process for the public to comment on whether to extend particular exclusions granted in April 2019 for up to 12 months. This notice announces the U.S. Trade Representative's determination to extend certain exclusions for 12 months.

DATES: The product exclusion extensions announced in this notice will apply as of April 18, 2020, and extend for one year. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Assistant General Counsels Philip Butler or Benjamin Allen, or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions identified in the Annex to this notice, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

For background on the proceedings in this investigation, please see prior notices including 82 FR 40213 (August 23, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 32181 (July 11, 2018), 83 FR 67463 (December 28, 2018), 84 FR 11152 (March 25, 2019), 84 FR 16310 (April 18, 2019), 84 FR 21389 (May 14, 2019), 84 FR 25895 (June 4, 2019), 84 FR 32821 (July 9, 2019), 84 FR 46212 (September 3, 2019), 84 FR 49564 (September 20, 2019), 84 FR 52567 (October 2, 2019), 84 FR 58427 (October 31, 2019), 84 FR 70616 (December 23, 2019), 84 FR 72102 (December 30, 2019), 85 FR 6687 (February 5, 2020), 85 FR 12373 (March 2, 2020), and 85 FR 16181 (March 20, 2020).

Effective July 6, 2018, the U.S. Trade Representative imposed additional 25 percent duties on goods of China classified in 818 8-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $34 billion. *See* 83 FR 28710 (the $34 billion action). The U.S. Trade Representative's determination included a decision to establish a process by which U.S. stakeholders could request exclusion of particular products classified within an 8-digit HTSUS subheading covered by the $34 billion action from the additional duties. The U.S. Trade Representative issued a notice setting out the process for the product exclusions, and opened a public docket. *See* 83 FR 32181 (the July 11 notice).

In April 2019, the U.S. Trade Representative granted a set of exclusion requests, which expire on April 18, 2020. *See* 83 FR 67463 (the April 18 notice). On February 5, 2020, the U.S. Trade Representative invited the public to comment on whether to extend, by up to 12 months, particular exclusions granted in the April 18 notice. *See* 85 FR 6687 (the February 5 notice).

Under the February 5 notice, commenters were asked to address whether the particular product and/or a comparable product is available from sources in the United States and/or in third countries; any changes in the global supply chain since July 2018 with respect to the particular product, or any other relevant industry developments; and efforts, if any, importers or U.S. purchasers have undertaken since July 2018 to source the product from the United States or third countries.

In addition, commenters who were importers and/or purchasers of the products covered by an exclusion were asked to provide information regarding their efforts since July 2018 to source the product from the United States or third countries; the value and quantity of the Chinese-origin product covered by the specific exclusion request purchased in 2018, the first half of 2018, and the first half of 2019, and whether these purchases are from a related company; whether Chinese suppliers have lowered their prices for products covered by the exclusion following the imposition of duties; the value and quantity of the product covered by the exclusion purchased from domestic and third country sources in 2018, the first half of 2018 and the first half of 2019; the commenter's gross revenue for 2018, the first half of 2018, and the first half of 2019; whether the Chinese-origin product of concern is sold as a final product or as an input; whether the imposition of duties on the products covered by the exclusion will result in severe economic harm to the commenter or other U.S. interests; and any additional information in support or in opposition of the extending the exclusion.

The February 5 notice required the submission of comments no later than March 16, 2020.

[3] Although ATL initially submitted its verified notice on March 19, 2020, the date of its supplement is considered the filing date and the basis for all dates in this notice.

B. Determination To Extend Certain Exclusions

Based on the evaluation of the factors set out in the July 11 notice and February 5 notice, which are summarized above, pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, and in accordance with the advice of the interagency Section 301 Committee, the U.S. Trade Representative has determined to extend for 12 months certain product exclusions covered by the February 5 notice, as set out in the Annex to this notice. The U.S. Trade Representative's determination also takes into account advice from advisory committees and any public comments concerning the extension of the pertinent exclusion.

In accordance with the July 11 notice, the exclusions are available for any product that meets the description in the Annex, regardless of whether the importer filed an exclusion request. Further, the scope of each exclusion is governed by the scope of the 10-digit HTSUS headings and product descriptions in the Annex to this notice, and not by the product descriptions set out in any particular request for exclusion.

As set out in the Annex, the U.S. Trade Representative has determined to extend the following exclusions granted under the April 18, 2019 notice under heading 9903.88.07 and under U.S. note 20(j) to subchapter III of chapter 99 of the HTSUS: (2), (4), (6), (7), (11), (12), (14), and (21).

ANNEX

Effective with respect to good entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 6, 2018, and before April 18, 2021, the additional duties provided for in heading 9903.88.01 shall not apply to products which are provided for in heading 9903.88.07 and described by U.S. notes 20(j)(2), 20(j)(4), 20(j)(6), 20(j)(7), 20(j)(11), 20(j)(12), 20(j)(14) and 20(j)(21) to subchapter III of chapter 99 of the HTSUS, as follows:

(2) Roller machines designed for cutting, etching or embossing paper, foil or fabric, manually powered (described in statistical reporting number 8420.10.9080)

(4) Ratchet winches designed for use with textile fabric strapping (described in statistical reporting number (8425.39.0100)

(6) Counterweight castings of iron or steel designed for use on fork lift and other work trucks (described in statistical reporting number 8431.20.0000)

(7) Tines, carriages, and other goods handling apparatus and parts designed for use on fork lift and other works trucks (described in statistical reporting number 8431.20.0000)

(11) Reject doors, pin protectors, liners, front walls, grates, hammers, rotor and end disc caps, and anvil and breaker bars, of iron or steel, the foregoing parts of metal shredders (described in statistical reporting number 8479.90.9496)

(12) Steering wheels designed for watercraft, of stainless steel, having a wheel diameter exceeding 27 cm but not exceeding 78 cm (described in statistical reporting number 8479.90.9496)

(14) Pipe brackets of aluminum, each with 4 ports, the foregoing measuring 27.9 cm x 20.3 cm x 17.8 cm and weighing 11.34 kg, designed for installation into air brake control valves (described in statistical reporting number 8481.90.9040)

(21) Instruments for measuring or checking voltage or electrical connections; electrical circuit tracers (described in statistical reporting number 9030.33.3800)

Joseph Barloon,

General Counsel, Office of the U.S. Trade Representative.

[FR Doc. 2020–07564 Filed 4–9–20; 8:45 am]

BILLING CODE 3290–F0–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2020–0379]

Agency Information Collection Activities: Requests for Comments; Clearance of a New Approval of Information Collection: Operational Waivers for Small Unmanned Aircraft Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request Office of Management and Budget (OMB) approval for a new information collection. The FAA proposes collecting information about requests for waivers from certain operational rules that apply to small unmanned aircraft systems (sUAS). The FAA will use the collected information to make determinations whether to authorize or deny the requested operations of sUAS. The proposed information collection is necessary to issue such authorizations or denials consistent with the FAA's mandate to ensure safe and efficient use of national airspace.

DATES: Written comments should be submitted by June 9, 2020.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Dwayne C. Morris, 800 Independence Ave. SW, Washington, DC 20591.

By fax: (202) 267–1078.

FOR FURTHER INFORMATION CONTACT: Jeremy Grogan by email at: *jeremy.grogan@faa.gov*; phone: (405) 666–1187

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–XXXX.

Title: Operational Waivers for Small Unmanned Aircraft Systems.

Form Numbers: N/A (Online Portal).

Type of Review: New.

Background: The FAA has seen increased operations of small unmanned aircraft systems (sUAS) flying under 14 CFR part 107. Under 14 CFR 107.205, operators of small UAS may seek waivers from certain operational rules. The FAA is updating and modernizing the process for applying for such waivers using the DroneZone website. These improvements will facilitate the process of collecting and submitting the information required as part of a waiver application. The reporting burdens for operational waiver applications are currently covered by Information Collection Request (ICR) 2120–0768. As part of this effort, the FAA is creating a new ICR just for operational waiver applications. In order to process operational waiver requests, the FAA requires the operator's name, the operator's contact information, and information related to the date, place, and time of the requested small UAS operation. Additional information is required related to the proposed waiver and any necessary mitigations. The FAA will use the requested information to

determine if the proposed UAS operation can be conducted safely. This information is necessary for the FAA to meet its statutory mandate of maintaining a safe and efficient national airspace. See 49 U.S.C. 40103, 44701 and 44708.

Respondents: sUAS Operators: 8,034 per year.

Frequency: On occasion. For requests for operational waivers, a respondent will need to provide the information once at the time of the request for the waiver. If granted, operational waivers may be valid for up to four (4) years.

Estimated Average Burden per Response: 0.65 hours per response.

Estimated Total Annual Burden: 5,222 hours.

Issued in Washington, DC, on April 7, 2020.

Dwayne C. Morris,

Project Manager, Flight Standards Service, General Aviation and Commercial Division.

[FR Doc. 2020–07604 Filed 4–9–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2020–0239]

Registration and Financial Security Requirements for Brokers of Property and Freight Forwarders; Small Business in Transportation Coalition (SBTC) Exemption Application

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that the Small Business in Transportation Coalition (SBTC) seeks reconsideration of an August 14, 2013, application by the Association of Independent Property Brokers and Agents (AIPBA) for an exemption from the $75,000 bond requirement for all property brokers and freight forwarders. FMCSA denied the AIPBA application on March 31, 2015, and treats the SBTC request as a new exemption application. FMCSA requests public comment on SBTC's application.

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

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2020–0239 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the *Public Participation and Request for Comments* section below for further information.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.
- Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9826 before visiting the DOT Docket Room.

Privacy Act: DOT posts public comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (202) 366–4325; Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2020–0239), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comments online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2020–0239'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

II. Legal Basis

Under Section 32918 of the Moving Ahead for Progress in the 21st Century Act, Public Law 112–141, 126 Stat. 405 (MAP–21), all brokers and freight forwarders subject to FMCSA's jurisdiction must maintain $75,000 in financial security. 49 U.S.C. 13906(b)(3), (c)(4). Such financial security must be in the form of a surety bond or trust fund. 49 CFR 387.307(a); 49 CFR 387.403T(c). Under 49 U.S.C. 13541(a), the Secretary of Transportation (Secretary) ''shall exempt a person, class of persons, or a transaction or service from the application, in whole or in part, of a provision of [49 U.S.C. Part B (Chapters 131–149)], or use this exemption authority to modify the application of a provision of [49 U.S.C. Part B (Chapters 131–149)] as it applies to such person, class, transaction, or service when the Secretary . . . finds that the application of that provision:

(1) Is not necessary to carry out the transportation policy of [49 U.S.C.]13101;

(2) is not needed to protect shippers from the abuse of market power or that the transaction or service is of limited scope; and

(3) is in the public interest.''

49 U.S.C. 13541(a).

In a September 10, 2019, letter to FMCSA (SBTC Petition for Exemption), SBTC seeks a 5-year exemption from the $75,000 financial security requirements at 49 U.S.C. 13906(b) and (c) for certain small business brokers and freight forwarders with revenues below $15.01

million.[1] Section 13906 is located in 49 U.S.C. Part B (Chapter 139) and therefore may be considered within the general scope of the Agency's exemption authority under section 13541.[2] The Secretary may begin a section 13541 exemption proceeding on the application of an interested party or on the Secretary's own initiative. 49 U.S.C. 13541(b). The Secretary may ''specify the period of time during which an exemption'' is effective and may revoke the exemption ''to the extent specified, on finding that application of a provision of [49 U.S.C. Chapters 131–149] to the person, class, or transportation is necessary to carry out the transportation policy of [49 U.S.C.] section 13101.'' 49 U.S.C. 13541(c), (d). In addition, the exemption authority provided by section 13541 ''may not be used to relieve a person from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage [or] insurance . . .'' 49 U.S.C. 13541(e)(1).

The Administrator of FMCSA has been delegated authority under 49 CFR 1.87 to carry out the functions vested in the Secretary by 49 U.S.C. 13541.

III. Background

On July 6, 2012, the President signed into law MAP–21, which included a number of mandatory, non-discretionary changes to FMCSA programs. Some of these changes amended the financial security requirements applicable to property brokers and freight forwarders operating under FMCSA's jurisdiction. MAP–21 § 32918, (codified at 49 U.S.C. 13906(b) and (c)). More specifically, 49 U.S.C. 13906(b) and (c) require brokers and freight forwarders to provide evidence of minimum financial security in the amount of $75,000. On October 1, 2013, FMCSA issued regulations requiring brokers and freight forwarders to have a $75,000 surety bond or trust fund in effect. 49 CFR 387.307(a), 387.403(c). 78 FR 60226, 60233. The 11th Circuit Court of Appeals dismissed AIBPA's Administrative Procedure Act challenge to the rule, *AIPBA* v. *Secretary, U.S. Department of Transportation,* 13–15238 (11th Cir. Mar. 18, 2016), and the United States District Court for the Middle District of Florida dismissed a separate AIPBA challenge to the constitutionality of the statute. *AIPBA* v. *Foxx,* 5:15–cv–00038–JSM–PRL (M.D. Fla. July 15, 2015).

On December 26, 2013, FMCSA requested public comment on the August 14, 2013, AIPBA application for an exemption for all property brokers and freight forwarders from the requirement for a $75,000 surety bond or trust fund (78 FR 78472). Specifically, FMCSA requested comments on whether the Agency should grant or deny AIPBA's application, in whole or in part. The Agency also requested comments on how it should apply 49 U.S.C. 13541(a)(1–3) to AIPBA's request. 78 FR at 78473.

On March 31, 2015 (80 FR 17142), FMCSA published a **Federal Register** notice denying AIPBA's request.[3] The Agency concluded that the exemption should be denied on the basis that 49 U.S.C. 13541 does not give FMCSA the authority to essentially nullify a statutory provision by exempting the entire class of persons subject to the provision. 80 FR at 17145. Furthermore, even if the Agency had the authority to issue such a blanket exemption, AIPBA's exemption application did not meet the factors provided in section 13541 because (1) the new $75,000 bond requirement is necessary to carry out the National Transportation Policy at 49 U.S.C. 13101, (2) there has been no showing that the $75,000 requirement ''is not needed to protect shippers from the abuse of market power,'' and (3) the requested exemption is not in the public interest. *Id.* at 17147.

On Sept. 10, 2019, SBTC submitted its current request for a 5-year exemption from the $75,000 broker/freight forwarder financial responsibility requirement for those brokers and freight forwarders with revenues under $15.01 million.

Request for Comments

FMCSA requests public comment on the SBTC exemption application. A copy of SBTC's exemption application is included in the public docket referenced at the beginning of this notice. Specifically, FMCSA requests comments on whether the Agency should grant or deny the application, in whole or in part. The Agency also requests comments on how it should apply 49 U.S.C. 13541(a)(1–3) to SBTC's request. Commenters are encouraged to provide data or information concerning the impact of the financial security requirements and/or the impact of granting this exemption request on motor carriers, brokers, freight forwarders and shippers.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2020–07539 Filed 4–9–20; 8:45 am]

BILLING CODE 4910–EX–P

[1] SBTC Petition for Exemption, at 10.

[2] SBTC styles its request as a resubmission of an exemption request pursuant to 49 U.S.C. 31315(b)(3) and 49 CFR 381.317. Section 31315 of title 49 and 49 CFR part 381 apply to exemptions from 49 U.S.C. Chapter 313, 49 U.S.C. 31136 and from rules issued under those statutes, however. FMCSA therefore has no jurisdiction to entertain a resubmission of AIPBA's exemption request under section 31315(b)(3) and section 381.317, as the requirements SBTC seeks exemption from are not within Chapter 313 or Section 31136. However, instead of dismissing SBTC's request, FMCSA will treat SBTC's request as a new request for exemption under section 13541 and consider it under that applicable statutory provision.

[3] AIPBA did not appeal FMCSA's decision as required within the 60-day limitations period in 28 U.S.C. 2344.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Safety Advisory 2020–01; Safety Precautions Related to Coronavirus Disease 2019 (COVID–19)

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Notice of Safety Advisory.

SUMMARY: This Safety Advisory encourages railroads, their employees, and contractors to review and follow all applicable guidance available related to COVID–19, including the best practices identified in the President's Coronavirus Guidelines for America—30 Days to Slow the Spread of Coronavirus (COVID–19), the Centers for Disease Control and Prevention's (CDC) COVID–19 guidelines, and the Occupational Safety and Health Administration's (OSHA) Guidance on Preparing Workplaces for COVID–19. This Safety Advisory recommends that railroads develop and implement procedures and practices consistent with the above-identified best practices and that railroads take certain other actions to ensure the safety of railroad operations and maintenance during this national emergency. FRA believes that actions consistent with this Safety Advisory will reduce the risk of railroad employees, contractors, and members of the public contracting or spreading COVID–19.

FOR FURTHER INFORMATION CONTACT: Karl Alexy, Associate Administrator for Safety and Chief Safety Officer, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 493–6282.

Disclaimer: This Notice of Safety Advisory is considered guidance pursuant to 49 CFR 5.25. The information in this Safety Advisory does not have the force and effect of law and is not meant to bind the public in any way. If you have questions relating to COVID–19, please contact the CDC directly.

SUPPLEMENTARY INFORMATION:

Background

As reported by CDC,[1] infection with SARS–CoV–2, the virus that causes COVID–19, can cause a respiratory illness that can spread from person to person. Symptoms can range from mild to severe, and often include a fever and a cough or difficulty breathing. The outbreak first started in China, but cases have been identified in a growing number of other areas, including the United States. On March 11, 2020, the World Health Organization characterized the COVID–19 outbreak a pandemic, meaning the disease had spread worldwide. On March 13, 2020, President Donald J. Trump declared a national emergency related to COVID–19.

SARS–CoV–2 is a novel virus, which means there is still much to learn about the risk factors, signs and symptoms, and how it is spread.[2] Based on what the CDC currently knows about the virus, it is mostly spread from person-to-person in close contact (within about 6 feet) through respiratory droplets produced when an infected person coughs, sneezes, or talks.[3] Maintaining good social distance (about 6 feet) is very important in preventing the spread of COVID–19.[4] It may also be possible that a person can get COVID–19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes, but this is not thought to be the main way the virus spreads.[5]

FRA's Actions Related to COVID–19

Following the President's declaration of a national emergency related to COVID–19, on March 13, 2020, FRA Administrator Ronald L. Batory determined that the imminent threat and exposure to COVID–19 posed a risk of serious illness that constitutes an ''emergency situation'' as related to railroad operations. As a result, Administrator Batory activated FRA's *Emergency Relief Docket* (ERD) (Docket Number FRA–2020–0002), which enabled FRA to begin considering, on an expedited basis, requests for relief from regulatory requirements to address issues caused by the COVID–19 public health emergency.

Through the ERD, FRA has issued temporary, industry-wide relief from certain FRA regulations to help enable railroads to continue to operate for the duration of the COVID–19 public health emergency, and at the same time, to ensure the safety of railroad employees. *See* Docket Number FRA–2020–0002, available on *www.regulations.gov*. FRA granted temporary, conditional relief from certain required tests and inspections, as well as certain operational relief. FRA conditioned much of the relief granted in the waiver on the existence of workforce shortages or other constraints directly resulting from the COVID–19 public health emergency, meaning that individual railroads may utilize the relief only in situations where COVID–19 has caused workforce shortages (*i.e.,* employees are out sick or quarantined) or otherwise prevented railroads from complying with the regulations. Other relief FRA granted is consistent with CDC's recommendations for social distancing and limiting the touching of common surfaces.

Safety Advisory 2020–01

Railroads are a critical infrastructure industry and have a responsibility to ensure the timely movement of essential goods and people. FRA encourages railroads to review the following guidance and information related to the COVID–19 public health emergency:

- The President's Coronavirus Guidelines for America—30 Days to Slow the Spread: *https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf*;
- CDC's Coronavirus (COVID–19) website: *https://www.cdc.gov/coronavirus/2019-nCoV/index.html*;
- CDC's Interim Guidance for Businesses and Employers: *https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html*;
- CDC's Workplace, Home and School Guidance: *https://www.cdc.gov/coronavirus/2019-ncov/downloads/workplace-school-and-home-guidance.pdf*;
- OSHA's COVID–19 guidance page: *https://www.osha.gov/coronavirus*; and
- Federal Coronavirus website: *www.coronavirus.gov.*

FRA encourages railroads to take action consistent with the recommendations and guidance cited above to help reduce the risk that railroad employees and contractors contract COVID–19 and then spread it to others. FRA may modify this Safety Advisory or take other appropriate actions necessary to ensure the highest level of safety on the Nation's railroads.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety and Chief Safety Officer.

[FR Doc. 2020–07559 Filed 4–9–20; 8:45 am]

BILLING CODE 4910–06–P

[1] *https://www.cdc.gov/coronavirus/2019-ncov/index.html.*

[2] The understanding of COVID–19 is constantly evolving; FRA recommends checking the CDC website for the most current information and recommendations.

[3] *https://www.cdc.gov/coronavirus/2019-ncov/prepare/transmission.html.*

[4] *Id.*

[5] *Id.*

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2020–0003]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of a currently approved information collection: Metropolitan and Statewide and Nonmetropolitan Transportation Planning.

DATES: Comments must be submitted before June 9, 2020.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Website: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (Note: The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your

comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Dwayne Weeks, Office of Planning & Environment, (202) 493–0396, or email at *Dwayne.Weeks@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of The collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Metropolitan and Statewide and Nonmetropolitan Transportation Planning (OMB Number: 2132–0529).

Background: The FTA and Federal Highway Administration (FHWA) jointly carry out the federal mandate to improve urban and rural transportation. 49 U.S.C. 5303 and 5304 and 23 U.S.C. 134 and 135 authorize the use of federal funds to assist Metropolitan Planning Organizations (MPOs), States, and local public bodies in developing transportation plans and programs to serve the transportation needs of urbanized areas over 50,000 in population and other areas of States outside of urbanized areas. The information collection activities involved in developing the Unified Planning Work Program (UPWP), the Metropolitan Transportation Plan, the Long-Range Statewide Transportation Plan, the Transportation Improvement Program (TIP), and the Statewide Transportation Improvement Program (STIP) are necessary to identify and evaluate the transportation issues and needs in each urbanized area and throughout every State. These products of the transportation planning process are essential elements in the reasonable planning and programming of federally funded transportation investments.

In addition to serving as a management tool for MPOs, the UPWP is used by both FTA and FHWA to monitor the transportation planning activities of MPOs. It also is needed to establish national out year budgets and regional program plans, develop policy on using funds, monitor State and local compliance with technical emphasis areas, respond to Congressional inquiries, prepare Congressional testimony, and ensure efficiency in the use and expenditure of Federal funds by determining that planning proposals are both reasonable and cost-effective. 49 U.S.C. 5303 and 23 U.S.C.134 (j) require the development of TIPs for urbanized areas; STIPs are mandated by 49 U.S.C. 5304 and 23 U.S.C. 135(g) for an entire State. After approval by the Governor and MPO, metropolitan TIPs in attainment areas are to be incorporated directly into the STIP. For nonattainment areas, FTA/FHWA must make a conformity finding on the TIPs before including them in the STIP. The complete STIP is then jointly reviewed and approved or disapproved by FTA and FHWA. These conformity findings and approval actions constitute the determination that States are complying with the requirements of 23 U.S.C. 134 and 135 and 49 U.S.C. 5303 and 5304 as a condition of eligibility for federal-aid funding. Without these documents, approvals and findings, FTA and FHWA cannot provide capital and/or operating assistance.

The FTA and FHWA updated their method for estimating the annual burden hours of the transportation planning programs on respondents to reflect the Final Rule on Statewide and Nonmetropolitan Transportation Planning and Metropolitan Transportation Planning. On July 6, 2012, the President signed into law Public Law 112–141, the Moving Ahead for Progress in the 21st Century Act (MAP–21) and on December 4, 2015, signed into law Public Law 114–94, the Fixing America's Surface Transportation Act (FAST). The MAP–21 makes significant changes to the statewide and nonmetropolitan planning process and the metropolitan transportation planning process, and the FAST makes minor changes to existing provisions. As a result, FHWA and FTA have issued a final rule that makes the regulations consistent with current statutory requirements. The rule is central to the implementation of the overall performance management framework created by MAP–21.

The changes to the FHWA/FTA statewide and nonmetropolitan and metropolitan transportation planning regulations (23 CFR part 450 and 49 CFR part 613) make the regulations consistent with current statutory requirements. Major regulatory revisions include a new mandate for States and MPOs to take a performance-based approach to planning and programming; a new emphasis on the nonmetropolitan transportation planning process, by requiring States to have a higher level of involvement with nonmetropolitan local officials and providing a process for the creation of regional transportation planning organizations (RTPOs); a structural change to the membership of the larger MPOs; a new framework for voluntary scenario planning; and a process for programmatic mitigation plans. The revised burden hour estimates reflect the annual compliance burden of the requirements in the Final Rule on Statewide and Nonmetropolitan Transportation Planning and Metropolitan Transportation Planning published on May 27, 2016. Additionally, the estimates were updated to apply revised labor costs for inflation, a new uniform overhead rate used by all Department of Transportation modes, reduce the number of respondents (due to mergers of Metropolitan Planning Organizations), and the addition of the HOPE discretionary grant program.

Respondents: State Departments of Transportation and MPOs.

Estimated Annual Burden on Respondents: 9,206 hours for each of the 456 respondents.

Estimated Total Annual Burden: 4,198,379 hours.

Frequency: Annual.

Nadine Pembleton,

Director Office of Management Planning.

[FR Doc. 2020–07525 Filed 4–9–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2020–0005]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of a currently approved information collection: Pre-Award, Post-Delivery Audit Requirements Under Buy America.

DATES: Comments must be submitted before June 9, 2020.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Website: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (*Note:* The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Jason Luebbers (202) 366–8864 or email: *Jason.Luebbers@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Pre-Award, Post-Delivery Audit Requirements Under Buy America (OMB Number: 2132–0544).

Background: Federal Transit Laws, 49 U.S.C. 5323(j) and (m), require that recipients of Federal Transit Administration (FTA) funding comply with certain requirements, including Buy America, certify compliance of these requirements at the pre-award and post-delivery stages of the procurement process when using FTA funds and maintain on file certifications.

Bidders or offerors must submit certificates to assure compliance with Buy America, the purchaser's contract specifications (for rolling stock only), and Federal motor vehicle safety requirements (for rolling stock only). The information collected on the certification forms is necessary for FTA recipients to meet the requirements of 49 U.S.C. Section 5323(j) and (m). In addition, FTA recipients are required to certify, as part of their annual Certifications and Assurances, that they will comply with pre-award and post-delivery audit requirements for rolling stock under 49 CFR part 661.

Respondents: FTA recipients, including State and local government, and businesses or other for-profit organizations.

Estimated Annual Burden on Respondents: (1) Approximately 2.16 hours for each of the estimated 700 procurements by FTA recipients and businesses or other for-profit organizations to certify compliance (or 1,512 hours), (2) approximately .16 hours for each of the estimated 700 procurements for recordkeeping by FTA recipients (or 112 hours), and (3) 1.66 hours for each of the estimated 700 procurements for review by FTA recipients (or 1,162 hours).

Estimated Total Annual Burden: 2,786 hours.

Frequency: Annual.

Nadine Pembleton,

Director Office of Management Planning.

[FR Doc. 2020–07524 Filed 4–9–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2020–0004]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of a currently approved information collection: Title VI as it Applies to FTA Grant Programs.

DATES: Comments must be submitted before June 9, 2020.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Website: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (*Note:* The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this

notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Richie Nguyen (202) 366–2689 or email: *Richie.Nguyen@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Title VI as it Applies to FTA Grant Programs (OMB Number: 2132–0540).

Background: Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) states:

''No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.''

To achieve this purpose, each Federal department and agency which provides financial assistance for any program or activity is authorized and directed by the Department of Justice (DOJ) to effectuate provisions of Title VI for each program or activity by issuing generally applicable regulations or requirements. The Department of Transportation (DOT) has issued its regulations implementing this DOJ mandate.

In this regard, the responsibility of the FTA is to ensure that Federally-supported transit services and benefits are distributed by applicants, recipients, and subrecipients of FTA assistance in a manner consistent with Title VI. The employment practices of a grant applicant, recipient, or sub-recipient are also covered under Title VI if the primary purpose of the FTA-supported program is to provide employment or if those employment practices would result in discrimination against beneficiaries of FTA-assisted services and benefits.

FTA policies and requirements are designed to clarify and strengthen Title VI (service equity) procedures for FTA grant recipients by requiring submission of written plans and approval of such plans by the agency. All project sponsors receiving financial assistance pursuant to an FTA-funded project shall not discriminate in the provision of services because of race, color, or national origin. Experience has demonstrated that a program requirement at the application stage is necessary to assure that benefits and services are equitably distributed by grant recipients. The requirements prescribed by the Office of Civil Rights are designed to accomplish this objective and diminish possible vestiges of discrimination among FTA grant recipients. FTA's assessment of the requirements indicated that the formulation and implementation of the Title VI Program should occur with a decrease in costs to such applicants and recipients.

Respondents: Transit agencies, States, and Metropolitan Planning Organizations.

Estimated Annual Burden on Respondents: 283 (45 hours for each of the 100 more specific Title VI Program submissions; 1 hour for each of the 183 general Title VI Program submissions).

Estimated Total Annual Burden: 4,684 hours.

Frequency: Annual.

Nadine Pembleton,

Director Office of Management Planning.

[FR Doc. 2020–07526 Filed 4–9–20; 8:45 am]

BILLING CODE 4910–57–P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meeting Notice; Unified Carrier Registration Plan Board Subcommittee Meeting

TIME AND DATE: April 16, 2020, from Noon to 3:00 p.m., Eastern time.

PLACE: This meeting will be accessible via conference call. Any interested person may call (i) 1–877–853–5247 (US Toll Free), (ii) 1–888–788–0099 (US Toll Free), (iii) 1–669–900–6833 (US Toll), or (iv) 1–929–205–6099 (US Toll), *Conference ID:* 360 608 3231, to listen and participate in this meeting.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Education and Training Subcommittee (the ''Subcommittee'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda

I. Call to Order—UCR Subcommittee Chair

The Subcommittee Chair will welcome attendees, call the meeting to order, call roll for the Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Subcommittee Agenda and Setting of Ground Rules—Subcommittee Chair

For Discussion and Possible Subcommittee Action

The Subcommittee Agenda will be reviewed, and the Subcommittee will consider adoption.

Ground Rules

➢ Subcommittee action only to be taken in designated areas on agenda
➢ Please MUTE your phone
➢ Please do not place the call on HOLD

IV. Approval of Minutes From January 27, 2020 and March 19, 2020 Meetings—UCR Operations Manager

• Draft minutes from the January 27, 2020 Education and Training

Subcommittee meeting in San Antonio, Texas will be reviewed. The Subcommittee will consider action to approve.

• Draft minutes from the March 19, 2020 Education and Training Subcommittee meeting via teleconference will be reviewed. The Subcommittee will consider action to approve.

V. Update on Education and Training Modules—UCR Technology Director

The UCR Technology Director will review the development of each of the three education and training modules (Enforcement, UCR 101, and National Registration System), including format and budget. The Subcommittee will discuss and provide comments on the education and training modules.

VI. Role of Subcommittee in Development of Modules—UCR Technology Director

The UCR Technology Director will lead a discussion on the need for assistance and guidance from the Subcommittee in the development of the modules.

VII. Planning for Education and Training Sessions at June 8, 2020 Meeting—Subcommittee Chair

The Subcommittee Chair will report on the latest plans for UCR to host several live education and training sessions at the summer meeting on June 8, 2020 in Portland, Oregon.

VIII. Other Items—Subcommittee Chair

The Subcommittee Chair will call for any other items the Subcommittee members would like to discuss.

IX. Adjournment—Subcommittee Chair

Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, April 8, 2020 at: *https://plan.ucr.gov.*

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov.*

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2020–07693 Filed 4–8–20; 11:15 am]

BILLING CODE 4910–YL–P

DEPARTMENT OF VETERANS AFFAIRS

Genomic Medicine Program Advisory Committee; Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, that a meeting of the Genomic Medicine Program Advisory Committee (the Committee) will be held on Wednesday April 29, 2020, via teleconference. The meeting will begin at 11:00 a.m. EST and adjourn at 3:00 p.m. EDT. The meeting is open to the public on VANTS 1–800–767–1750 CODE 94273#.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on using genetic information to optimize medical care for Veterans and to enhance development of tests and treatments for diseases particularly relevant to Veterans.

On April 29, 2020, the Committee will receive updated briefings on various VA research programs, including the Million Veteran Program (MVP) to ascertain the progress of the program in the areas of participant recruitment, data generation and storage, and data access. The Committee will also receive updates from ongoing MVP endeavors, including cohort building, data generation and usage, return of results and a new mental health initiative. Additionally, the Committee will discuss and explore potential recommendations to be included in the next annual report.

Public comments will be received at 2:30 p.m. and are limited to 5 minutes each. Individuals who speak are invited to submit a 1–2 page summary of their comments for inclusion in the official meeting record to Jennifer Moser, Designated Federal Officer, Office of Research and Development (10X2), 810 Vermont Avenue NW, Washington, DC 20420, or via email at *Jennifer.Moser@va.gov.* In the communication, writers must identify themselves and state the organization, association or person(s) they represent. Any member of the public who wishes to attend the teleconference should RSVP to Jennifer Moser at (202) 510–4253 no later than close of business, April 22, 2020, at the phone number or email address noted above.

Dated: April 7, 2020.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2020–07623 Filed 4–9–20; 8:45 am]

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FEDERAL REGISTER

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Part II

Environmental Protection Agency

40 CFR Part 63
Mercury and Air Toxics Standards for Power Plants Electronic Reporting Revisions; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2018–0794; FRL–10007–27–OAR]

RIN 2060–AU70

Mercury and Air Toxics Standards for Power Plants Electronic Reporting Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S Environmental Protection Agency (EPA) is proposing amendments to the electronic reporting requirements for the National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units (also known as the Mercury and Air Toxics Standards (MATS)). This proposed action would revise and streamline the electronic data reporting requirements of MATS and increase data transparency by requiring use of one electronic reporting system, instead of two separate systems, and provide enhanced access to MATS data. No new continuous monitoring requirements would be imposed by this proposed action; instead, this action would reduce reporting burden, increase MATS data flow and usage, make it easier for inspectors and auditors to assess compliance, and encourage wider use of continuous emissions monitoring systems (CEMS) for MATS compliance. In addition, this proposed action would extend the current deadline for alternative electronic data submission via portable document format (PDF) files through December 31, 2023.

DATES:

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

Public hearing. If anyone contacts us requesting a public hearing on or before April 15, 2020, we will hold a hearing. Additional information about the hearing, if requested, will be posted at *https://www.epa.gov/mats/regulatory-actions-final-mercury-and-air-toxics-standards-mats-power-plants.* See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2018–0794, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2018–0794 in the subject line of the message.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room will be closed to public visitors beginning at the close of business on March 31, 2020 (4:30 p.m.) to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/* or email, as there will be a delay in process mail and no hand deliveries will be accepted. For further information on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Mr. Barrett Parker, Sector Policies and Programs Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5635; email address: *parker.barrett@epa.gov.* For general information concerning MATS, contact Ms. Mary Johnson, Sector Policies and Programs Division (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–5025. For questions concerning the Emissions Collection and Monitoring Plan System (ECMPS) Client Tool and its implementation, contact Mr. Christopher Worley, Clean Air Markets Division, Mail Code 6204M, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 343–9531; email address: *worley.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION: The information in this preamble is organized as follows:

Table of Contents

I. Public Participation

Public hearing. Please contact Ms. Adrian Gates at (919) 541–4860 or by email at *gates.adrian@epa.gov* to request a public hearing, to register to speak at the public hearing, or to inquire as to whether a public hearing will be held.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2018–0794. All documents in the docket are listed in *Regulations.gov.* Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet. Publicly available docket materials are available electronically in *Regulations.gov.*

The EPA is temporarily suspending its Docket Center and Reading Room for public visitors to reduce the risk of transmitting COVID–19. Written

comments submitted by mail will be delayed and no hand deliveries will be accepted. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/*. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention, local area health departments, and our Federal partners so we can respond rapidly as conditions change regarding COVID–19.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2018–0794. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov/,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov/* or email. This type of information should be submitted by mail as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov/,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2018–0794. Note that written comments containing CBI and submitted by mail will be delayed and no hand deliveries will be accepted.

II. General Information

A. Does this action apply to me?

Categories and entities potentially affected by this proposed action include:

Category	NAICS code [1]	Examples of potentially regulated entities
Industry	221112	Fossil fuel-fired electric utility steam generating units (EGUs).
Federal government	[2] 221122	Fossil fuel-fired EGUs owned by the Federal government.
State/local/tribal government	[2] 221122	Fossil fuel-fired EGUs owned by municipalities.
	921150	Fossil fuel-fired EGUs in Indian country.

[1] North American Industry Classification System.
[2] Federal, state, or local government-owned and operated establishments are classified according to the activity in which they are engaged.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this proposed action, you should carefully examine the applicability criteria in 40 CFR 63.9981 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult either the air permitting authority for the entity or your EPA Regional representative as listed in 40 CFR 63.13.

B. What action is the Agency taking?

The EPA proposes this rule to streamline the electronic data reporting requirements of MATS; to increase data transparency by making more of the MATS data available in Extensible Markup Language (XML) format; and to amend the reporting and recordkeeping requirements associated with performance stack tests, particulate matter (PM) and hydrogen chloride (HCl) CEMS, and PM continuous parameter monitoring systems (CPMS).

C. What is the Agency's authority for taking this action?

The Agency's authority for taking this action is found at 42 U.S.C. 7401 *et seq.*

D. What are the incremental costs and benefits of this action?

As discussed in section VII.C of this preamble, this action is expected to

reduce overall annual source burden by 11,000 hours per year, which when monetized is $15,079,000.

III. Background

These proposed amendments would revise the recordkeeping and reporting requirements of the MATS rule, in response to concerns raised by the regulated community. The MATS rule originally required affected EGU owners or operators to report MATS rule emissions and compliance information electronically using two data systems. See 40 CFR 63.10031 (77 FR 9304, February 16, 2012). Paragraph (a) of 40 CFR 63.10031 required EGU owners or operators that demonstrate compliance by continuously monitoring mercury (Hg) and/or HCl and/or hydrogen fluoride (HF) emissions to use the Emissions Collection and Monitoring Plan System (ECMPS) Client Tool to submit monitoring plan information, quality assurance test results, and hourly emissions data in accordance with appendices A and B to subpart UUUUU of 40 CFR part 63. Paragraph (f) of 40 CFR 63.10031 required performance stack test results, performance evaluations of Hg, HCl, HF, sulfur dioxide (SO_2), and PM CEMS, 30-boiler operating day rolling average values for certain parameters, Notifications of Compliance Status, and semiannual compliance reports to be submitted to the EPA's WebFIRE database via the Compliance and Emissions Data Reporting Interface (CEDRI).

Subsequent to the publication of the MATS rule, stakeholders suggested to the EPA that the MATS rule electronic reporting burden could be significantly reduced if all of the required information were reported to one data system instead of two. The stakeholders also suggested that using one data system would benefit the EPA and the public in their review of MATS rule data, because the information would be reported in a consistent format. In view of these considerations, the stakeholders urged the EPA to consider amending the MATS rule to require all of the data to be reported through the ECMPS, a familiar data system that most EGU owners or operators have been using since 2009 to meet the electronic reporting requirements of the Acid Rain Program.

After careful consideration of the stakeholders' recommendations, the EPA concluded that the increased transparency of the emissions data and the reduction in reporting burden that could be achieved through the use of a single data system are consistent with Agency priorities. As a result, late in 2014 the EPA decided to take the necessary steps to require all of the electronic reports required by the MATS rule to be submitted through the ECMPS Client Tool. Those steps would include revising the MATS rule, modifying the ECMPS Client Tool, creating a detailed set of reporting instructions, and beta testing the modified software. Recognizing that insufficient time was available to complete these tasks before the initial compliance date for the MATS rule (April 16, 2015), the Agency embarked on a two-phased approach to complete them.

The first phase was completed when the EPA published a final rule requiring EGU owners or operators to suspend temporarily (until April 16, 2017) the use of the CEDRI interface as the means of submitting the reports described in 40 CFR 63.10031(f) introductory text and (f)(1), (2), and (4), and to use the ECMPS Client Tool to submit PDF versions of these reports on an interim basis (see 80 FR 15510, March 24, 2015). The specific reports required to be submitted as PDF files included: Performance stack test reports containing enough information to assess compliance and to demonstrate that the testing was done properly; relative accuracy test audit (RATA) reports for SO_2, HCl, HF, and Hg CEMS; RATA reports for Hg sorbent trap monitoring systems; response correlation audit (RCA) and relative response audit (RRA) reports for PM CEMS; 30-boiler operating day rolling average reports for PM CEMS, PM CPMS, and approved hazardous air pollutants (HAP) metals CEMS; Notifications of Compliance Status; and semiannual compliance reports. Title 40 CFR 63.10031(f)(6) of the March 24, 2015, final rule required each PDF version of a submitted interim report to include information that identifies the facility (name and address), the EGU(s) to which the report applies, the applicable rule citations, and other information. The rule further specified that in the event that implementation of the single data system initiative was not completed by April 16, 2017, the electronic reporting of MATS data would revert to the original two systems approach on and after that date.

In the preamble to the March 24, 2015, final rule, the EPA outlined the second phase of the single data system initiative, to be executed during the interim PDF reporting period. In phase two: (1) The Agency would publish a direct final rule, requiring MATS-affected sources to use the ECMPS Client Tool to submit all required reports; and (2) a detailed set of reporting instructions would be developed and ECMPS would be modified to receive and process the data.

Considering the magnitude of the rule changes that would be required to execute phase two, coupled with the need to specify data elements to be reported electronically for PM CEMS, PM CPMS, and HCl CEMS, the Agency decided to provide stakeholders an opportunity to review and comment on the proposed changes. The EPA issued the proposed rule on September 29, 2016.[1] The comment period for the 2016 proposal (or previous proposal) was scheduled to close on October 31, 2016, but it was subsequently extended until November 15, 2016, in response to requests from several stakeholders for an extension.

Commenters were generally supportive of the initiative to simplify and streamline the MATS reporting requirements and to use the ECMPS Client Tool as the single MATS rule reporting system. However, they expressed serious concerns about the proposal to extend the interim PDF reporting process from April 16, 2017, to December 31, 2017. Although they favored an extension of the PDF reporting, they were unanimous in asserting that the proposed end date of December 31, 2017, would not allow enough time to finalize the rule, develop the necessary XML reporting formats and reporting instructions, and reprogram the ECMPS Client Tool. In addition, two data acquisition and handling system vendors stated that more time would be needed for them to adapt to the proposed changes and to develop the reporting software for their customers. Some of the commenters recommended that the EPA should extend the interim PDF reporting process through calendar year 2019; others suggested that the process should be extended for 6 to 8 calendar quarters after finalization of the rule.

In view of these considerations, on April 6, 2017, the EPA published a final rule extending the interim PDF file reporting process through June 30, 2018 (82 FR 16736). Technical corrections to appendix A were also included in the rule package. The rule went into effect on April 6, 2017. As the Agency was unable to compete the e-reporting provisions, another extension to the interim PDF file reporting process—through June 30, 2020—was promulgated on July 2, 2018 (83 FR 30879). This action proposes to further extend the interim PDF reporting process through December 31, 2023, and proposes the remaining needed amendments to the MATS rule on

[1] 81 FR 67062, September 29, 2016.

electronic reporting. Note that these proposed amendments were developed after consideration of the comments received on the September 29, 2016, proposal.

IV. What is the scope of these proposed amendments?

This proposed action would amend the reporting requirements in 40 CFR 63.10031 of the MATS regulation, and, for consistency with those changes, would amend related text in 40 CFR part 63, subpart UUUUU; specifically, 40 CFR 63.10000, 63.10005, 63.10009, 63.10010, 63.10011, 63.10020, 63.10021, 63.10030, 63.10032, 63.10042, and Tables 3, 8, and 9. The recordkeeping and reporting sections of appendices A and B are also proposed to be amended [2] and three new appendices are proposed to be added to the rule, *i.e.,* appendices C, D, and E. Instead of using the electronic reporting tool (ERT) to submit some of the MATS data via CEDRI and submitting the remainder through the ECMPS Client Tool, as was required by the original MATS rule, this proposed action would allow EGU owners or operators to use the ECMPS Client Tool to report all of the required information in XML and PDF files.

V. What specific amendments to 40 CFR part 63, subpart UUUUU, are proposed by this action?

The proposed amendments to 40 CFR part 63, subpart UUUUU, are discussed in detail in the paragraphs below.

A. Proposed Revisions to the Reporting Requirements of MATS

The reporting requirements of MATS are proposed to be amended as follows:

(1) The ECMPS Client Tool would be used as the exclusive data system for MATS reporting, in lieu of using both ECMPS and the CEDRI.

(2) The interim PDF reporting process described in 40 CFR 63.10031(f) would be further extended through December 31, 2023, to allow sufficient time for software development, programming, and testing. Until then, compliance with the emissions and operating limits would continue to be assessed based on the various PDF report submittals described in 40 CFR 63.10031(f) and data from Hg, HCl, HF, and SO_2 CEMS and sorbent trap monitoring systems, as reported through the ECMPS Client Tool. On and after January 1, 2024, compliance with the emissions and operating limits would be assessed based on: (1) Quarterly compliance reports; (2) hourly data from all continuous monitoring systems (CMS) (including PM CEMS and PM CPMS) in XML format; (3) detailed reference method information for stack tests and CMS performance evaluations in XML format and PDF files; (4) Notifications of Compliance Status (if any), in PDF files; and, (5) if applicable, supplementary data in PDF files for EGUs using paragraph (2) of the definition of ''startup'' in 40 CFR 63.10042. The ECMPS Client Tool would be used to submit all of these reports and notifications.

(3) In order to properly close out the interim PDF reporting process, 40 CFR 63.10031(f)(6) would state that PDF submittals will still be accepted as necessary for the reports required under paragraph (f) introductory text, (f)(1), (2), or (4) if the deadlines for submitting those reports extend beyond December 31, 2023. As an example, the last semiannual compliance report under the interim PDF reporting process would cover the period from July 1, 2023, through December 31, 2023; the deadline for submitting this report would be January 30, 2024, and the report would be submitted using the interim PDF reporting process.

(4) Revised paragraph (f)(2) of 40 CFR 63.10031 would expand the quarterly reporting of 30- or 90-boiler operating day rolling average emission rates to include units monitoring Hg, HCl, HF, and/or SO_2 emissions, and units using emissions averaging. This change is consistent with 40 CFR 63.10031(f)(2) of the current rule, which requires quarterly reporting of 30-boiler operating day rolling averages for EGUs using PM CEMS, PM CPMS, and approved HAP metals CEMS. Therefore, starting with the first quarter of 2024, the 30- or 90-boiler operating day rolling averages (or, if applicable, rolling weighted average emission rates (WAERs) if emissions averaging is used) would be reported quarterly in XML format for all parameters (including Hg, HF, HCl, and SO_2). However, instead of providing these rolling averages in separate, stand-alone reports, they would be incorporated into the quarterly compliance reports required under 40 CFR 63.10031(g) (see section IV.A.(9) of this preamble, below).

(5) Revised paragraphs (a)(1), (2), and (5) of 40 CFR 63.10031 would clarify the electronic reporting requirements for the Hg, HCl, HF, SO_2, and auxiliary CMS. Specifically:

(i) Paragraph (a)(1) would require the electronic reporting requirements of appendix A to be met if Hg CEMS or sorbent trap monitoring systems are used.

(ii) Paragraph (a)(2) would require the electronic reporting requirements of appendix B to be met, with one important qualification, if HCl or HF monitoring systems are used. Until December 31, 2023, if Performance Specification (PS) 18 in part 60, appendix B, is used to certify an HCl monitor and Procedure 6 in part 60, appendix F, is used for on-going quality assurance (QA) of the monitor, EGU owners or operators would temporarily report only data that the existing programming of ECMPS is able to accommodate, *i.e.,* hourly HCl emissions data and the results of daily calibration drift tests and RATAs; records would have to be kept of all of the other required certification and QA tests and supporting data. The reason for this temporary, limited reporting is that PS 18 and Procedure 6 were not published until July 7, 2015; therefore, it was not possible to specify recordkeeping and reporting requirements for them in the original version of appendix B. Now that PS 18 and Procedure 6 have been finalized, this rule would add the necessary recordkeeping and reporting requirements, and the interim reporting for HCl would be discontinued as of January 1, 2024 (for further discussion, see section IV.C of this preamble).

(iii) Paragraph (a)(5) would clarify the electronic reporting requirements for the SO_2 CEMS and the auxiliary monitoring systems under MATS. Sources currently reporting SO_2 mass emissions under the Acid Rain Program or Cross-State Air Pollution Rule already meet these requirements, except for paragraphs (a)(5)(iii)(C) and (E), which would require, respectively, quarterly reporting of an hourly SO_2 emission rate data stream in units of the applicable MATS standard (*i.e.,* pounds per British thermal units (lb/MMBtu) or pounds per megawatt hours (lb/MWh)) and certification statements from the responsible official. Separate certification statements would be required for the 40 CFR part 75 programs and MATS. (*Note:* For consistency with the changes described in items (i) through (iii), immediately above, 40 CFR 63.10031(f)(3) would be removed and reserved).

(6) Paragraphs (b)(1) and (2) of 40 CFR 63.10031 would be amended to recognize that some EGUs may have received extensions of their compliance

[2] In 2015, the EPA published a technology-neutral performance specification and associated quality assurance (QA) test procedures for HCl monitors (see Performance Specification 18 (PS 18) and Quality Assurance Procedure 6 (Procedure 6) in 80 FR 38628, July 7, 2015). That rule added certification and QA test requirements for sources electing to monitor HCl according to PS 18 and Procedure 6. This proposed action would require the results of the appendix B certification and QA tests to be reported electronically for periods beginning on January 1, 2024.

date under 40 CFR 63.6(i)(4). References to postmark dates for submittal of semiannual compliance reports paragraphs would be removed from paragraphs (b)(2) and (4); these reports currently are, and would continue to be, submitted electronically through ECMPS as PDF files, until they are superseded by quarterly compliance reports, starting in the first quarter of 2024.

(7) The provision in 40 CFR 63.10031(b)(5), which allowed affected EGU owners or operators to follow alternate submission schedules for semiannual compliance reports would be removed. The uniform submission schedule described in 40 CFR 63.10031(b)(1) through (4) would be required for all affected EGUs, so that compliance with this reporting requirement can easily be tracked.

(8) Revised 40 CFR 63.10031(b)(5) would require EGU owners or operators to discontinue submission of semiannual compliance reports when the interim PDF reporting period ends. The final semi-annual compliance report would cover the period from July 1, 2023, through December 31, 2023.

(9) EGU owners or operators would submit quarterly compliance reports in lieu of the semiannual compliance reports, starting with reports covering the first quarter of 2023 (see 40 CFR 63.10031(g)). The quarterly compliance reports would retain many features of the semiannual reports and consolidate them with other reports that were originally required to be submitted separately on different schedules. These compliance reports would be due within 60 days after the end of each calendar quarter, which would allow sufficient time to receive the results of stack tests (particularly PM, HCl, and HF tests) performed at or near the end of a calendar quarter. Each quarterly compliance report would include the applicable data elements listed in sections 2 through 13 of appendix E.

The owner or operator's MATS compliance strategy determines which of the data elements in sections 2–13 of appendix E would be included in the quarterly compliance reports. If continuous emission monitoring were used to demonstrate compliance on a 30- or 90-boiler operating day rolling average basis, the quarterly compliance reports would include all of the 30- or 90-day averages calculated during the quarter. If emissions averaging were used, EGU owners or operators would report all of the 30- or 90-group boiler operating day WAERs calculated during the quarter. If periodic stack testing for compliance were performed (including Hg Low-Emitting EGU (LEE) tests and PM tests to set operating limits for PM CPMS), the EGU owner or operator would report a summary of each test completed during the calendar quarter and indicate whether the test has a special purpose (*i.e.,* if it were to be used to establish LEE status or for emissions averaging).

The quarterly compliance reports would retain and incorporate the following features of the semiannual compliance reports: (1) Boiler tune-up dates; (2) monthly fuel usage data; (3) process and control equipment malfunction information; (4) reporting of deviations; and (5) emergency bypass information, for certain EGUs that qualify for and elect to use the LEE compliance option for Hg. However, for EGU owners or operators who elect to (or are required to) use CMS to demonstrate compliance, these quarterly reports, to some extent, would move away from traditional ''exception only'' reporting. Currently, reporting of the excess emissions and monitor downtime information described in 40 CFR 63.10(e)(3)(v) and (vi) in PDF files has been required as part of the semiannual compliance reports. That information includes, among other things, identification of excess emissions periods, identification of periods when the monitoring system was inoperative or out of control, the reasons for the excess emission and monitor downtime periods, corrective actions or preventative measures taken, description of repairs or adjustments to inoperative or out-of-control CMS, the total amount of source operating time in the reporting period, and the excess emissions and monitor downtime, expressed as percentages of the source operating time. As explained above, rather than this traditional exception-only reporting, these proposed amendments would require all of the 30- (or 90-) boiler operating day rolling averages or WAERs for all parameters to be included in the quarterly compliance reports. In addition, the following elements of the excess emissions summary, with slight modifications, are proposed to be included in the quarterly compliance reports: (1) The total number of source operating hours in the quarter and (2) the total number of hours of monitoring system downtime for various causes (known and unknown).

As previously noted, the requirement to report deviations would be retained in the quarterly compliance reports. Specifically, the revisions to 40 CFR 63.10031(d) would require the applicable data elements in section 13 of appendix E to be reported, which include the nature of the deviation (section 13.2), a description of the deviation (section 13.3), and any corrective actions taken (section 13.4). Section 13.3 further specifies the minimum amount of information that would be reported in the description of certain deviations (*i.e.,* unmonitored bypass stack usage, emissions or operating limit exceedances, monitoring system outages, and missed or late performance stack tests).

We believe that consolidating information in quarterly compliance reports, as described above, rather than requiring separate submittals of 30- (or 90-) boiler operating day rolling average reports, excess emissions reports, and semiannual compliance reports that come in separately at different times during the year, greatly simplifies reporting and will make it easier for inspectors and auditors to assess compliance with the standards. Also, quarterly, as opposed to semiannual, reporting is advantageous because it shortens significantly the interval between the time that deviation or exceedance reporting on a term longer than quarterly occurs. Draft reporting instructions for the quarterly compliance reports are provided in the rule docket and on the OAQPS and Clean Air Markets Division (CAMD) websites. In response to comments received, these instructions have been modified from a previous draft version.

(10) A new paragraph, (c)(10), is being proposed to be added to § 63.10031 and would require malfunction information to be included in the semiannual compliance reports. This is not a new requirement; it was previously found in paragraph (g). However, as explained above, revised paragraph (g) would require quarterly compliance reports to be submitted, starting in 2024. Therefore, to avoid losing the requirement to report malfunction information in the semiannual compliance reports, the former paragraph (g) would be renamed as paragraph (c)(10) and would be added to the list of information that must be included in the semiannual reports. The introductory text of paragraph (c) would also be amended, to recognize the addition of paragraph (c)(10).

(11) For consistency with the reporting requirements for the other CMS, the Agency is not proposing a requirement for sources using PM CPMS to submit separate quarterly excess emission summary reports in addition to the quarterly compliance reports. After careful consideration of comments on a previous proposal, we are persuaded that sufficient information to assess compliance with the operating limits of a PM CPMS would be provided

by: (1) The hourly PM CPMS response data reported in appendix D; (2) the quarterly compliance reports, which specify the operating limit of the PM CPMS, require deviations from the operating limit and monitoring requirements to be reported, and include summarized results of the PM tests used to develop the operating limits; and (3) the applicable reference method data for the PM tests required to be reported under sections 17–30 of appendix E.

We are proposing to amend Table 9 to 40 CFR part 63, subpart UUUUU, as follows to reflect the transition away from exception-only reporting. The applicability of the recordkeeping and reporting requirements for excess emission and monitor downtime summary reporting in 40 CFR 63.10(c)(7), 63.7(c)(8), and 63.10(e)(3) would end on December 31, 2023, with the phase-out of the semiannual compliance reports.

(12) One commenter on the previous proposal brought to light some inconsistencies in the rule; regarding the way in which periods of monitor downtime should be regarded and reported, *i.e.,* whether or not they are reportable deviations. The commenter pointed out that 40 CFR 63.10020(d) exempts monitoring equipment malfunctions and out-of-control periods from being reported as deviations, whereas 40 CFR 63.10010(h)(6)(i), (i)(5)(i)(A) and (B), and (j)(4)(i)(A) and (B) appear to say the opposite, requiring these downtime incidents to be included in ''annual deviation reports.'' The EPA never intended to exempt these particular monitor outages from being reported as deviations; the Agency meant for the exemption to apply only to routine QA and maintenance activities.[3] Therefore, 40 CFR 63.10020(d) would be clarified, and the statements in 40 CFR 63.10010(h)(6)(i), (i)(5)(i)(A) and (B), and (j)(4)(i)(A) and (B) more closely represent the Agency's position. But even there, the text is problematic, because deviations are currently required to be reported in the semiannual compliance reports (not in ''annual deviation reports'') and will continue to be reported in the quarterly compliance reports when the transition to quarterly reporting occurs. To address the inconsistencies in 40 CFR 63.10020(d) and 63.10010(h)(6)(i), (i)(5)(i)(A) and (B), and (j)(4)(i)(A) and (B), the proposed rule would amend these rule sections by clarifying that monitor outages due to monitoring equipment malfunctions and out-of-control periods are deviations, and, therefore, would be reported as such in the compliance reports.

The same commenter further asserted that there are other incorrect statements in 40 CFR 63.10010(h)(6)(i), (i)(5)(i)(A), and (j)(4)(i)(A) and (B), regarding the reporting of quality assurance/quality control (QA/QC) activities for PM CPMS, PM CEMS, and HAP metals CEMS. These rule sections all require the QA/QC activities to be reported ''per the requirements of 40 CFR 63.10031(b).'' However, the reference to 40 CFR 63.10031(b), which provides the schedule for submitting semiannual compliance reports, appears to be a typographical error. The commenter recommended replacing it with a more general reference to 40 CFR 63.10031. The EPA agrees with the commenter that the reference to 40 CFR 63.10010(b) is inappropriate; but the comment led to examination of inconsistencies between language in 40 CFR 63.10010(h)(6)(i), (i)(5)(i)(A), and (j)(4)(i)(A) and (B) and language in 40 CFR 63.10010(h)(7), (i)(5)(ii), and (j)(4)(ii). The former sections require QA/QC activities for PM CPMS, PM CEMS, and HAP metals CEMS to be reported, while the latter sections state that the results of monitoring system performance audits must only be made available ''upon request.'' The Agency maintains reporting of QA test results is mandatory for all CMS. In view of this, the EPA proposes the following amendments. First, the reference to 40 CFR 63.10010(b) in the last sentence in paragraphs (h)(6)(i) and (j)(4)(i)(A) and (B) would be removed. Second, paragraphs (h)(7) and (j)(4)(ii) would be revised to require the monitoring system performance evaluations of PM CPMS and HAP metals CEMS to be reported. Third, a new paragraph, (k), would be added to 40 CFR 63.10031, and would require the QA/QC activities for PM CPMS and HAP metals CEMS to be reported quarterly in PDF files; these reports would be due within 60 days after the end of each calendar quarter, starting with a report for the first quarter of 2024 or, if the methodology is not in use by the source owner or operator in the first quarter of 2024, starting with the first calendar quarter in which the PM CPMS or HAP metals CEMS methodology is used. Reporting as PDF files is appropriate because there are no standardized QA test procedures for these CMS in the CFR; their QA test requirements are found only in source-specific MATS monitoring plans and will likely vary from source-to-source. Finally, 40 CFR 63.10010(i) would be revised in light of the addition of appendix C; paragraph (i) now simply cross-references the appropriate sections of appendix C, regarding the certification, operation, maintenance, on-going QA, recordkeeping, and reporting requirements for PM CEMS.

(13) In all cases in which periodic stack tests (including Hg LEE tests and PM tests that are used to develop PM CPMS operating limits) are performed to demonstrate compliance, the proposal would retain the requirement for the EGU owner or operator to provide the applicable reference method data in appendix E (*i.e.,* sections 17 *et seq.*) for each stack test that is performed to demonstrate compliance. Each of these submittals would be required to accompany the quarterly compliance report that covers the calendar quarter in which the test was completed. For PM tests that are used to develop PM CPMS operating limits, you would also be required to include the information in 40 CFR 63.10023(b)(2)(vi) as part of the Test Comment data element found in section 17.25 of appendix E.

(14) The applicable reference method data in sections 17 through 30 of appendix E would also be provided in XML format, starting with tests completed on or after January 1, 2024, for each RATA of an Hg, SO_2, HCl, or HF monitoring system, and for each RRA, RCA, or correlation test of a PM CEMS. The information in section 31 of appendix E would also be provided in a PDF file for each test. The appendix E information would be submitted concurrently with the summarized electronic test results submitted to ECMPS under appendix A, B, or C, or 40 CFR part 75 (for SO_2 RATAs).

(15) The ECMPS Client Tool would also be used to make the following submittals in PDF files:

(i) A detailed report of the current, active PS 11 correlation test, if the EGU owner or operator is using a certified PM CEMS to demonstrate compliance. For correlation tests completed prior to [DATE 60 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], the report would be due no later than 60 days after that date. For correlation tests completed on or after [DATE 60 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], but prior to January 1, 2024, the report would be due within 60 days after the date on which the test is completed. (*Note:* For correlations completed on and after January 1, 2024,

[3] The following statement from the preamble of the original MATS rule makes this clear: ''Hours when a monitoring system is out of service would be counted as hours of monitor down-time and may be a deviation from the monitoring requirements of this rule unless the rule provides an exception for routine quality control and maintenance activities.'' (77 FR 9375, February 16, 2012).

in lieu of a PDF report, the test results would be submitted electronically according to section 7.2.4 of appendix C, together with the applicable reference method data required under sections 17 through 31 of appendix E);

(ii) Any initial Notification of Compliance Status issued on or after January 1, 2024; and

(iii) The information specified in 40 CFR 63.10031(c)(5)(ii) and 63.10020(e) for startup and shutdown incidents, if you are relying on paragraph (2) of the definition of ''startup'' in 40 CFR 63.10042. Starting with a report covering the first calendar quarter of 2024, this information would be submitted along with the quarterly compliance report. Note that 40 CFR 63.10031(c)(5)(iii) through (v), which require the semiannual compliance reports to include the hourly CEMS and operating parameter data recorded during startup and shutdown events have not been carried over to this PDF report because this information is duplicative of the hourly data reported electronically in the quarterly emissions reports. Startup and shutdown hours are flagged in the emissions reports and are identifiable for auditing purposes.

(16) To accommodate the required PDF reports, the applicable data elements in 40 CFR 63.10031(f)(6)(i) through (xii) would be proposed to be entered into the ECMPS Client Tool at the time of submission of each PDF file. Note that the amendment to data element (xii) would replace the word ''conducted'' with the word ''completed.''

(17) Although the ECMPS Client Tool would be used to submit the required reports and notifications described in revised 40 CFR 63.10031 and Table 8, ECMPS would not evaluate any of the PDF submittals or any of the XML-formatted reference method data from sections 17 through 31 of appendix E. Instead, these reports and notifications would be transmitted directly through the EPA's Central Data Exchange using CEDRI unaltered. ECMPS would, however, perform electronic checking of the hourly PM CEMS data and the summarized RATAs, PM CEMS correlation tests, RRAs, and RCAs that are submitted in XML format, in a manner that is consistent with the way that certification and QA test results are evaluated under the Acid Rain and Cross-State Air Pollution Rule programs. ECMPS would use the results of these evaluations to assess the quality-assured status of the Hg, HCl, HF, SO_2, or PM emissions data. In addition, ECMPS would perform basic checks of the information in the quarterly compliance reports, *e.g.,* checking for completeness and proper formatting, but would leave compliance assessment to those who review the reports. The EPA intends for all of these various data submissions to work together in a complementary fashion to enable meaningful compliance determinations. It is essential that any problems with the data identified by the reviewers are communicated to all involved and resolved appropriately. For example, if, for a particular Hg RATA, a review of the reference method data shows that the method was not done properly, the RATA would be invalidated. If, at the time of this discovery, the deadline for performing the RATA has passed and the allowable grace period has also expired, this would result in invalidation of hourly emissions data, from the expiration of the grace period until a valid RATA is performed and passed. Consequently, resubmission of quarterly emissions reports, recalculation of 30-day compliance averages, and resubmission of quarterly compliance reports may become necessary.

B. Revisions to Appendix A

We are proposing to amend four sections of appendix A, *i.e.,* sections 7.1.3.3, 7.1.4.3, 7.1.8.2 and 7.2.3.1, based on comments received. The requirement in sections 7.1.3.3, 7.1.4.3, and 7.1.8.2 to report Hg concentrations and emission rates to 3 significant figures would be revised so that Hg concentrations in micrograms per standard cubic meter (µg/scm) and Hg emission rates in pounds per trillion British Thermal Units or pounds per gigawatt-hour (lb/TBtu or lb/GWh) would be reported with one leading non-zero digit and one decimal place, in scientific notation. Conventional rounding would be used, *i.e.,* if the digit immediately following the first decimal place is 5 or greater, the digit in the first decimal place would be rounded upward (increased by one); if the digit immediately following the first decimal place is 4 or less, the digit in the first decimal place would remain unchanged.

The requirement in section 7.2.3.1 to submit monitoring plan information at least 21 days before the applicable compliance date in 40 CFR 63.9984 would be revised. For new units or units that install Hg monitoring systems in order to switch from another MATS-compliant methodology to Hg monitoring, the monitoring plan information would be submitted at least 21 days prior to the date on which certification testing begins. However, for units implementing Hg monitoring with a previously-certified Hg monitoring system, the monitoring plan could be submitted prior to or concurrent with the first quarterly emissions report—provided that the monitoring plan would be in place when the first emissions report is submitted so that the ECMPS Client Tool would be able to evaluate the data.

C. Revisions to Appendix B

For affected source owners or operators desiring to continuously monitor HCl emissions, the original version of appendix B required the monitoring system to be certified according to PS 15 in appendix B to 40 CFR part 60. However, PS 15 applies only to Fourier Transform Infrared (FTIR) Spectroscopy monitoring systems; therefore, the use of other viable HCl monitoring technologies was excluded. In view of this, the EPA regarded the requirement to use PS 15 exclusively as a temporary measure, until a technology-neutral PS for HCl monitors could be developed and published. In section 3.1 of appendix B, the Agency stated its intention to publish such a PS in the near future together with appropriate on-going QA requirements and to amend appendix B to accommodate their use. This additional PS, (PS 18 in 40 CFR part 60, appendix B), and the on-going QA test requirements (Procedure 6 in 40 CFR part 60, appendix F) were published on July 7, 2015 (80 FR 38628, July 7, 2015).

Now that technology-neutral certification and QA test requirements for HCl monitors have been promulgated, EGU owners or operators may use any viable HCl monitoring technology that can meet the PS. However, in order for ECMPS to accommodate all of the tests required under PS 18 and Procedure 6, additional time must be allotted for software development. In view of this, we are proposing to revise 40 CFR 63.10031(a)(2), as previously noted, to require only information that is compatible with the existing programming of ECMPS to be reported electronically through December 31, 2023; this includes hourly HCl emissions data and the results of daily calibration drift tests and RATAs. In the interim, EGU owners or operators would be required to keep records of all of the other certification and QA tests, which would be reported starting in 2024.

We are proposing to revise the title to section 2.3 of appendix B by deleting the reference to FTIR-only monitoring systems. In addition, the recordkeeping and reporting sections of appendix B (*i.e.,* sections 10 and 11) would be amended. Based on comments received, sections 10.1.3.3 and 10.1.7.2, HCl and

HF concentrations (μg/scm) and emission rates (lb/MMBtu or lb/MWh) would be reported with one leading non-zero digit and one decimal place, in scientific notation, rather than reporting the concentrations and rates to 3 significant figures. Conventional rounding would be used, *i.e.,* if the digit immediately following the first decimal place is 5 or greater, the digit in the first decimal place would be rounded upward (increased by one); if the digit immediately following the first decimal place is 4 or less, the digit in the first decimal place would remain unchanged. Sections 10 and 11 also specify the data elements that would be recorded and reported for each of the tests required by PS 18 and Procedure 6. The revisions would make a clear distinction between the tests required for FTIR monitors that are following PS 15 and the test requirements of PS 18 and Procedure 6. Some of the tests in PS 18 and Procedure 6 are similar to tests for which ECMPS programming exists. For example, the ''measurement error test'' required for initial certification of the HCl monitor is structurally the same as a 40 CFR part 75 linearity check. Other tests have no counterpart in 40 CFR part 75 and would require special software development and reporting instructions. Note that electronic reporting of these tests through ECMPS would have been required if PS 18 and Procedure 6 had been in place when the original MATS rule was published. In view of this, for source owners or operators electing to use HCl CEMS, the amendments to section 11 of appendix B would introduce no unnecessary reporting burden. The results of certification and on-going QA tests would be reported electronically for all CEMS required under this rule in order for ECMPS to assess the quality-assured status of the emissions data. The Agency also notes that not all of the tests described in section 11 of appendix B would be required for all HCl monitors. For example, some of the tests (*i.e.,* beam intensity, temperature, and pressure verifications) are specific to Integrated Path—Continuous Emission Monitoring Systems (IP–CEMS), and Procedure 6 would offer a choice among three different types of audits (*i.e.,* cylinder gas audits, relative accuracy audits, or dynamic spiking audits) for the required quarterly QA tests. In addition, based on comments received, the reporting requirements for the interference check (which is not necessarily performed on each individual analyzer) would be reduced.

For each RATA of HCl CEMS that are completed on and after January 1, 2024, the applicable reference method data in sections 17 through 31 of appendix E would be submitted along with the electronic summary of results required under section 11 of appendix B. To the extent practicable, these data would be submitted prior to or concurrent with the relevant quarterly electronic emissions report. However, as previously noted, this may not always be possible, particularly when the RATA is done near the end of a calendar quarter. The EPA test Methods 26 and 26A, unlike instrumental test methods, require laboratory analyses of the collected samples and cannot provide test results while the test team is on-site. In view of this, section 11.4 of appendix B would allow the test results to be submitted up to 60 days after the test completion date. ''Provisional'' status may be claimed for the emissions data affected by the test, starting from the date and hour in which the test was completed, and continuing until the date and hour in which the test results are submitted. If the test is successful, the status of the data in that time period would change from provisional to quality-assured, and no further action is required. However, if the test is unsuccessful, the provisional data would be invalidated and resubmission of the affected emissions report(s) would be required.

Because a technology-neutral PS for HCl CEMS was not available prior to April 16, 2015 (which was the compliance date for many of the existing EGUs), EGU owners or operators interested in monitoring HCl either had to use an FTIR system and follow PS 15 or implement another compliance option (*e.g.,* quarterly emission testing) while awaiting publication of PS 18 and Procedure 6. In light of this, the EPA proposes to revise and restructure section 11.5.1 of appendix B to clarify when electronic reporting of hourly HCl emissions data begins. There are two possibilities. In the first case, the monitor is used for the initial compliance demonstration. This could either apply to a certified FTIR monitor following PS 15 or to a certified monitor following PS 18, if the owner or operator of the EGU received an extension of the compliance date. In this case, EGU owners or operators would begin reporting hourly HCl emissions through ECMPS with the first operating hour of the initial compliance demonstration. In the second case, another option, such as stack testing, is used for the initial compliance demonstration and continuous monitoring is implemented at a later time. In that case, EGU owners or operators would begin reporting hourly HCl emissions reporting through ECMPS with the first operating hour after successfully completing all required certification tests of the CEMS. In either case, the first quarterly emissions report submittal would be for the calendar quarter in which emissions reporting begins.

The requirement in section 11.3.1 to submit monitoring plan information at least 21 days before the applicable compliance date in 40 CFR 63.9984 would be revised. For new units or units that install HCl and/or HF monitoring systems in order to switch from another MATS-compliant methodology to HCl and/or HF monitoring, the monitoring plan information would be submitted at least 21 days prior to the date on which certification testing begins. However, for units implementing HCl and/or HF monitoring with a previously-certified monitoring system, the monitoring plan could be submitted prior to or concurrent with the first quarterly emissions report.

D. Addition of Appendix C

A new appendix, *i.e.,* appendix C, would been added to subpart UUUUU of 40 CFR part 63. Appendix C sets forth the continuous monitoring and reporting requirements for filterable PM. Appendix C is structurally similar to appendices A and B, but there is one notable difference. Appendix C would include provisions for installation and certification of the PM CEMS, and for on-going QA of the data from the CEMS. The monitoring system would be certified according to PS 11 in 40 CFR part 60, appendix B, and for the on-going QA tests, Procedure 2 to 40 CFR part 60, appendix F, would be required.

After consideration of comments received, the EPA has concluded that all PM concentrations should be reported in units of measure that are consistent with the PM CEMS correlation. For example, if the PM CEMS measures in units of milligrams per actual cubic meter (mg/acm) and the concentrations used to derive the correlation curve are in those same units, then the hourly PM concentrations would be recorded and reported in mg/acm. Section 7.1.9.5 of appendix C would also require the reference method readings and the PM CEMS responses obtained in the RRAs and RCAs to be reported in the same units of measure as the PM CEMS correlation curve.

Sections 7.1.3.3 and 7.1.7.2 would require PM concentrations and emission rates (lb/MMBtu or lb/MWh) to be reported with one leading non-zero digit and one decimal place, in scientific notation, rather than reporting the

concentrations and rates to three significant figures. Conventional rounding would be used, *i.e.,* if the digit immediately following the first decimal place is 5 or greater, the digit in the first decimal place would be rounded upward (increased by one); if the digit immediately following the first decimal place is 4 or less, the digit in the first decimal place would remain unchanged.

The proposed frequencies for the on-going QA tests and the rules for data validation are presented in Section 5 of appendix C. In response to numerous requests from commenters, the frequency and data validation rules for the RCAs and RRAs are similar, but not identical to, provisions of 40 CFR part 75. The frequency of these tests would follow the familiar calendar quarter and grace period reporting plan. An RRA would be required once every four calendar quarters and an RCA would be required once every 12 calendar quarters. A grace period would be provided (*i.e.,* 720 operating hours or one calendar quarter, whichever comes first), to cover cases where circumstances beyond the control of the owner or operator prevent the required test from being completed on schedule. In addition, as explained in detail below, section 7.2.4 of appendix C would allow the use of provisional data for up to 60 days after completion of an RRA, RCA, or PM CEMS correlation test.

The proposed procedures for calculating the PM emission rates in units of the emission standard are found in section 6. These calculation methods are basically the same as those used for Hg monitoring systems and for HCl and HF CEMS in appendices A and B. The proposed recordkeeping and reporting requirements are found in section 7. Section 7.1 proposed that monitoring plan records and hourly records of operating parameters, PM concentration, diluent gas concentration, stack gas flow rate and moisture content, and PM emission rate would be kept. Sections 7.2.3 and 7.2.4, respectively, would require monitoring plan information and the results of certification, recertification, and QA tests to be reported electronically. For consistency with these revisions to appendices A and B, section 7.2.3.1 would specify that for new units or units installing PM CEMS in order to switch from another MATS-compliant methodology to PM monitoring, the electronic monitoring plan information would be submitted at least 21 days prior to the commencement of certification testing. However, for units with previously-certified PM CEMS that elect to implement PM monitoring, the monitoring plan information could be submitted prior to or concurrent with the first quarterly emissions report. Section 7.2.5 would require quarterly electronic emissions reports to be submitted within 30 days after the end of each calendar quarter. All electronic reports would be submitted using the ECMPS Client Tool. However, for EGUs that have begun using the PM CEMS compliance option prior to January 1, 2024, electronic reporting of monitoring plan information, certification and on-going QA test results, hourly PM emissions data, and the applicable reference method data in appendix E would not begin until January 1, 2024, to allow time for software development and beta testing. Until then, records of the required information and tests would be kept. For EGUs that certify and begin using PM CEMS on or after January 1, 2024, reporting of hourly PM emissions data would begin with the first operating hour after successful completion of the initial PM CEMS correlation test.

For PM CEMS correlations, RRAs, and RCAs that are completed on and after January 1, 2024, the applicable reference method data in sections 17 through 31 of appendix E would be submitted along with the electronic test summary required under section 7.2.4 of appendix C. To the extent practicable, the electronic test results and the appendix E reference method data would be submitted prior to or concurrent with the relevant quarterly electronic emissions report. However, the EPA recognizes that this is not always possible, particularly when an RRA or RCA is done near the end of a calendar quarter. The EPA test Methods 5 and 5D, unlike instrumental test methods, require laboratory analyses of the collected samples and generally cannot provide test results while the test team is on-site. In view of this, section 7.2.4 of appendix C would allow the test results to be submitted up to 60 days after the test completion date. ''Provisional'' status could be claimed for the emissions data affected by the test, starting from the date and hour in which the test was completed, and continuing until the date and hour in which the test results are submitted. If the test is successful, the status of the data in that time period would change from provisional to quality-assured, and no further action is required. However, if the test is unsuccessful, the provisional data would be invalidated, and resubmission of the affected emission report(s) would be required.

E. Addition of Appendix D

We are proposing a second new appendix, *i.e.,* appendix D, be added to subpart UUUUU of 40 CFR part 63. Appendix D would set forth the monitoring and reporting requirements for EGU owners or operators who elect to use a PM CPMS to demonstrate continuous compliance. Structurally, appendix D would be similar to appendices A, B, and C. However, the criteria for system design and performance, the procedures for determining operating limits, data reduction, and compliance assessment, and certain recordkeeping requirements are not detailed in the appendix; rather, the applicable sections of the MATS rule are cross-referenced (see sections 2.1 through 2.4, 3.1 introductory text, and section 3.1.1.1 of the appendix).

Section 3.1.1.2 would require the ECMPS Client Tool to be used to create and maintain an electronic monitoring plan. The PM CPMS would be defined as a monitoring system with a unique system ID number. The monitoring plan would also include the current operating limit (with units of measure), the make, model, and serial number of the PM CPMS, the analytical principle of the monitoring system, and monitor span and range information.

We are proposing to require operating parameter records for each hour of operation of the affected EGUs, including the date and hour, the EGU or stack operating time, and a flag to identify exempt startup and shutdown hours. Hourly average PM CPMS output values would be reported for each hour in which a valid value of the output parameter is obtained, in units of milliamps, PM concentration, or other units of measure, including the instrument's digital signal output equivalent. A special code would be required to indicate operating hours in which valid data are not obtained. The percent monitor data availability would also be calculated in the manner established for SO_2, carbon dioxide (CO_2), oxygen (O_2), or moisture monitoring systems in 40 CFR 75.32.

Sections 3.2.2 and 3.2.3, respectively, would require notifications (to be provided in accordance with section 63.10030) and electronic monitoring plan submittals at specified times. For units using the PM CPMS compliance option prior to January 1, 2024, the electronic monitoring plan information would be submitted prior to or concurrent with the first quarterly report. For units switching to the PM CPMS compliance option on or after January 1, 2024, the electronic monitoring plan would be submitted no

later than 21 days prior to the PM test that establishes the initial operating limit. Section 3.2.4 would require the electronic quarterly reports to be submitted within 30 days after the end of each calendar quarter. Reporting of hourly responses from the PM CPMS would begin either with the first operating hour of 2024 or the first operating hour after completion of the stack test that establishes the initial operating limit, whichever is later. Each quarterly report would include a compliance certification with a statement by a responsible official that to the best of his or her knowledge, the report is true, accurate, and complete.

In addition to the electronic quarterly reports, we are proposing to require reporting of deviations from the operating limit in the quarterly compliance reports required under 40 CFR 63.10031(g). Further, section 3.2.5 of appendix D would require the results of each performance stack test for PM that is used to establish an operating limit to be reported electronically in the relevant quarterly compliance report. For PM tests completed on and after January 1, 2024, the applicable appendix E reference method data would also be submitted along with the relevant quarterly compliance report.

F. Addition of Appendix E

We are proposing to add a third new appendix, *i.e.,* appendix E, to subpart UUUUU of 40 CFR part 63. Sections 2 through 13 of appendix E list the data elements that would be reported in XML format in the quarterly compliance reports required under 40 CFR 63.10031(g), starting with reports covering the first quarter of 2024.

The MATS compliance strategy (*e.g.,* whether the EGU owner or operator elects to perform periodic stack testing, continuous monitoring, or to use emissions averaging) and the events that occur during each calendar quarter determine which data elements in sections 2 through 13 would be included in the quarterly compliance reports. As noted in section V.A.(9), updated reporting instructions for these compliance reports are found in the rule docket and are posted on the CAMD and MATS websites.

For reasons stated in the previous proposal's Response to Comments document (which is available in the rule docket [4]), we are proposing to retain the basic provisions of proposed sections 14 through 21 of appendix E, requiring details of the reference methods used for performance stack tests and continuous monitoring system performance evaluations to be reported in XML format. The rule would also retain the proposed requirement in section 22 of appendix E to provide reference method test information that is incompatible with electronic reporting as PDF files, although it has been renumbered as section 31 and modified to include a cross-reference to 40 CFR 63.7(g), which describes the contents of a performance test report. The applicable reference method information in appendix E would be provided for each stack test; each RATA of a Hg, HCl, HF, or SO_2 monitoring system; and each RRA, RCA, or correlation test of a PM CEMS that is completed on and after January 1, 2024.

To address concerns raised by the commenters about portions of the 2016 proposed rule [5] (the previous proposal), specifically, the reporting requirements in sections 17 through 21 of proposed appendix E, the Agency proposes to revise and reformat the data element lists to correspond to the compliance options described in section 16 of appendix E. Explicitly, sections 17 through 30 would replace previously proposed sections 17 through 21. Commenters pointed out, and the Agency concurs, that some of the previously proposed data elements are either unnecessary, inapplicable to MATS, or duplicative of information in other MATS reports; these elements are proposed to be removed from the lists and include:

- Previously proposed 7.1.3.3.1 of appendix C to this subpart;
- Previously proposed 7.1.3.3.2 of appendix C to this subpart;
- Previously proposed 7.1.3.3.3 of appendix C to this subpart;
- Previously proposed 7.1.3.4 of appendix C to this subpart;
- Previously proposed 10.4 of appendix E to this subpart;
- Previously proposed 10.5.1 of appendix E to this subpart;
- Previously proposed 10.5.2 of appendix E to this subpart;
- Previously proposed 10.5.7 of appendix E to this subpart;
- Previously proposed 17.28 of appendix E to this subpart;
- Previously proposed 17.30 of appendix E to this subpart;
- Previously proposed 17.37 of appendix E to this subpart;
- Previously proposed 18.21 of appendix E to this subpart;
- Previously proposed 19.29 of appendix E to this subpart;
- Previously proposed 20.4 of appendix E to this subpart;
- Previously proposed 20.15 of appendix E to this subpart;
- Previously proposed 20.17 of appendix E to this subpart;
- Previously proposed 20.21 of appendix E to this subpart;
- Previously proposed 20.25 of appendix E to this subpart;
- Previously proposed 20.30 of appendix E to this subpart;
- Previously proposed 20.36 of appendix E to this subpart;
- Previously proposed 20.37 of appendix E to this subpart;
- Previously proposed 20.41 of appendix E to this subpart;
- Previously proposed 20.42 of appendix E to this subpart;
- Previously proposed 20.44 of appendix E to this subpart;
- Previously proposed 20.46 of appendix E to this subpart;
- Previously proposed 20.52 of appendix E to this subpart;
- Previously proposed 21.14 of appendix E to this subpart; and
- Previously proposed 21.28 of appendix E to this subpart.

Reporting instructions for sections 17 through 30 have been developed. These proposed, draft example instructions are included in the rule docket and are posted on the MATS and CAMD websites.

The reorganized data element lists and corresponding instructions clarify which data elements are proposed to be reported for each compliance option and explain how the data are to be reported. Several new data elements are proposed for the lists, to enable the ECMPS Client Tool to be used, to enhance the quality of the data, and to facilitate compliance. As mentioned in VI.C of this preamble, this proposed action is expected to reduce overall annual source burden. The Agency believes that the proposed addition of these data elements is offset by the proposed removal of others, the proposed change to a consistent submission frequency, and the proposed merger of separate electronic reporting systems into just one electronic reporting system such that overall annual source reporting burden is reduced by 11,000 hours. The proposed new data elements to be reported are as follows:

- ''Part.'' The previous proposal would only have required the ''Subpart'' to be reported. To avoid any possible confusion with other EPA regulations, both the CFR part (63) and subpart (UUUUU) need to be included in the reports.
- ''APS Flags.'' For 3-level pre-test calibrations, system bias, and drift checks, instrumental EPA test Methods

[4] See EPA–HQ–OAR–2018–0794 at *https://www.regulations.gov/.*

[5] As mentioned in footnote 1, see 81 FR 67062 from September 29, 2016.

3A and 6C require certain acceptance criteria to be met. For each of these tests, there is a main PS and an alternative specification. The main PS is expressed as a percentage of span, while the alternative specification is the absolute difference between a reference value and the measured value. In view of this, it is important to know which specification has been applied to ascertain whether the test was successful or not. Therefore, alternative performance specification (APS) flags are proposed to be added for the pre- and post-test calibrations, bias checks, and drift checks. An APS flag of ''0'' indicates that the reported test result is based on the main performance specification, whereas an APS flag of ''1'' means that the reported result is based on the alternative specification.

- ''Test Comment.'' This text field is proposed to be added to allow the affected sources to provide additional, pertinent information about a particular test.
- ''Run Begin Date'' and ''Run End Date.'' These two data elements are proposed to replace the previous proposed element ''Run Date'' to cover cases where a test run begins on one day and ends on another (*e.g.,* if a run begins late at night and ends early the next morning).
- ''Converted Concentration and Units of Measure.'' These proposed data elements apply to correlation tests and performance audits (RRAs and RCAs) of PM CEMS. The reference method used for these tests is EPA test Method 5 (or, if applicable, 5D). The PM concentrations obtained from EPA test Method 5 or 5D are expressed in units of grams per dry standard cubic meter (g/dscm). However, consistent with section 8.6 of PS 11, appendix C of MATS proposes to require all PM concentrations to be reported in units of measure that are consistent with the PM CEMS correlation curve. Most PM CEMS measure concentration in units of milligrams per actual cubic meter (mg/acm); others may measure at a certain temperature (*e.g.,* mg/acm at 160 °Celsius), and still others may measure on a dry basis. Therefore, in addition to reporting the EPA test Method 5 test results in units of g/dscm, the converted PM concentrations would be reported in units consistent with the PM CEMS correlation curve.
- ''Average Sampling Rate and Units of Measure.'' These proposed data elements are specific to EPA test Method 30B. That EPA test Method 30B requires a post-test leak check of each sampling train. The leakage rate must not exceed 4 percent of the average sampling rate. Therefore, to assess compliance with this specification, both the leakage rate and the average sampling rate would be reported. The previous proposed rule only required the leakage rate to be reported.
- ''Control Device Code.'' This proposed data element refers to the control device code or control technology National Emission Inventory (NEI) code associated with the EGU (or group of EGUs sharing a common stack). Providing this data element would help in EGU categorization and emission factor development.
- ''Corresponding Reference Method(s), if applicable.'' This proposed data element allows pollutant reference method run data to be associated with concurrent measurements of the stack gas flow rate using EPA test Method 2, and/or CO_2 or O_2 concentration using EPA test Method 3A, and/or stack gas moisture content using EPA test Method 4. Reporting this data element is necessary to ensure test methods were conducted properly so that emission rates can be calculated.
- ''Corresponding Reference Method(s) Run Number, if applicable.'' This proposed data element provides the run number of concurrent reference method tests. The assigned run number of the EPA test Method 1 through 4 or EPA test Method 3A tests conducted at the same time as a reference method test needs to be reported in order to ensure the methods were conducted properly so that emission rates can be calculated.
- ''Pollutant Concentration Units of Measure.'' This proposed data element provides the appropriate units of measure code for the pollutant or analyte concentration, and reporting it is necessary for comparison to the standard.
- ''Pollutant Emission Rate.'' This proposed data element is the pollutant emission rate expressed in the units of the standard, and reporting it is necessary for comparison with the standard.
- ''Pollutant Emission Rate Units of Measure (in units of the standard).'' This proposed data element is the units of the standard specified in Table 1 or 2 of this subpart. Reporting it is necessary for comparison to the standard.
- ''Process Parameter Units of Measure.'' This proposed data element identifies the process rate parameter unit of measure: GWh/h, MWh/h, TBtu/h, or MMBTU/h, and reporting it is necessary to ensure accurate comparisons between runs and for emission factor development purposes.
- ''Total Pollutant Mass Trap A'' and ''Total Pollutant Mass Trap B.'' These proposed data elements refer to the total mercury mass measured by Train A and Train B, respectively, in the appropriate units of measure. Reporting these values is necessary for quality assurance purposes and for comparison with the standard.
- ''Method Detection Limit (MDL).'' This proposed data element refers to the minimum amount of analyte that can be detected and reported. Reporting it is necessary for calculation checks and for emissions factor development purposes.
- ''Percent Spike Recovery.'' This proposed data element refers to the spike recovery in percent, which is required to be reported by section 8.2.6.2 in EPA test Method 30B using Equation 30B–1.
- ''F-Factor (F_c).'' This proposed data element expands the current F-factor choices to include the carbon F-Factor, which is based on the ratio of CO_2 to heat content of fuel. Reporting it allows conversion from mass per volume to mass per heat input for those who choose to use emissions testing.
- ''Compliance Limit Basis (Heat Input or Electrical Output).'' This proposed data element identifies the denominator of the compliance units selected for an existing EGU by its owner or operator. Reporting this decision is necessary for comparison of results with the standard.
- ''Heat Input or Electrical Output Unit of Measure.'' This proposed data element specifies the denominator of the compliance unit that corresponds to the means of compliance selected for an existing EGU by its owner or operator. Reporting this unit is necessary for comparison of results with the standard and for emission factor development purposes.
- ''Pollutant Concentration.'' This proposed data element expands the already-existing ''Emissions Concentration'' data element to include pollutants. Reporting this data element is necessary for comparison of results with the standard and for emission factor development purposes.
- ''Stack Gas Flow Rate—dscfm.'' This proposed data element clarifies the already-existing ''Volumetric Flow Rate—scfm'' data element so that reporters will know to report their EGU's dry stack gas flow rate. Reporting this data element is necessary for calculation purposes. Several commenters[6] on the September 29, 2016, proposed rule (*i.e.,* the previous proposal) stated that those proposed revisions included a significant amount of duplicative reporting, which should be eliminated. In response to the

[6] Commenters 20612, 20597, and 20609 on Docket ID No. EPA–HQ–OAR–2009–0234.

concerns expressed by the commenters, the Agency examined the XML data element lists for stack tests and CMS performance evaluations in order to identify duplicative reporting and eliminate it where possible. The following evaluations were made:

First, the data elements in sections 2 through 13 of appendix E (for the quarterly compliance reports) were compared against the data elements in sections 17 through 30 of appendix E (corresponding to the detailed reference method data for stack tests and CMS performance evaluations). The two lists were found to have 20 data elements in common, but at least 9 of these elements (*i.e.,* Source ID (Sampling Location), Test Number, Run Number, Run Begin Date, and a few others) are proposed to be included in both XML schemas to properly link the individual stack test summaries in the compliance report with the corresponding reference method data.

Second, the data elements listed in the reporting sections of appendices A, B, and C of MATS, requiring the results of CMS performance evaluations (*i.e.,* RATAs, RRAs, and RCAs) to be reported using the ECMPS Client Tool, were compared against the corresponding reference method data elements in sections 17 through 30 of appendix E. Only 12 data elements common to the appendix E and ECMPS Client Tool schemas were found. This is not surprising because appendices A, B, and C require only summarized results of CMS performance evaluations—details of the Reference Method tests are not reported. Of the 12 data elements common to the appendix E and ECMPS lists, 10 of them are proposed to be included in both schemas to properly link the CMS test summaries with the corresponding reference method data. In view of these two evaluations, EPA concludes that most of the duplicative reporting found among the various data element lists is necessary to ensure that the results of stack tests and CMS performance evaluations summarized in the quarterly compliance reports and the QA test submittals to the ECMPS Client Tool can be matched with the corresponding Reference Method data. Further, the remainder of the duplicative reporting is minimal, rather than ''significant'' as asserted by the commenters. The Agency believes that it is best not to modify the data element lists to eliminate this small amount of duplicate reporting. Although the deadlines for submitting the quarterly compliance reports and the corresponding reference method data are the same (*i.e.,* within 60 days after the end of the quarter), the two XML reports might not be submitted concurrently. So, if, for instance, the compliance report is submitted prior to the reference method data, and certain data elements are found only in the reference method report, a thorough assessment of compliance may not be possible until the reference method report is received. Similar considerations apply to the summarized CMS performance evaluations in the ECMPS Client Tool and the corresponding reference method data, if the two XML reports are not submitted concurrently.

VI. Proposed Revisions to Other Rule Text

The revisions to 40 CFR 63.10031 necessitate changes to other sections of the rule to ensure that the rule is internally consistent. Based on comments received, revisions have also been made to clarify certain reporting requirements, to rectify inadvertent omissions, and to correct inconsistencies. The affected rule sections are as follows:

(a) We are proposing to revise the introductory text of paragraphs (a)(2) and (b) of 40 CFR 63.10005. The amendment to paragraph (a)(2) would clarify that Hg compliance may either be determined on either a 30- or 90-boiler operating day rolling average basis. For consistency with appendix E, revised paragraph (b) notes that when auxiliary stack gas flow rate or moisture data are needed to supplement a performance stack test conducted with an isokinetic method such as EPA test Method 5 or EPA test Method 26A, separate EPA test Method 2 or EPA Method 4 tests are not needed to satisfy the requirements of 40 CFR 63.10007 and Table 5. Data from the isokinetic method can be used to determine the stack gas flow rate and moisture content.

(b) We are proposing to amend 40 CFR 63.10009 as follows. The second and third sentences in paragraph (a)(2) would be revised to clarify the types of data that may be used to determine WAERs. Data from Hg CEMS, sorbent trap monitoring systems, but not LEE tests, may be used for Hg emissions averaging. For other pollutants, both CEMS data and stack test data may be used. The last sentence of paragraph (a)(2) would be amended to clarify that if any EGU in an averaging group operates on *any* of the days in a 30- or 90-group boiler operating day compliance period (regardless of how many or how few), the emissions data from that EGU on those days must be included in the weighted average. Since averaging of Hg emissions is permitted on a 30-group boiler operating day basis, Equations 2a and 2b in 40 CFR 63.10009 apply to Hg as well as other pollutants. Therefore, the words ''for pollutants other than Hg'' would be removed from the introductory text of paragraph (b)(2), and in the nomenclature of Equation 2a, the words ''or sorbent trap monitoring'' would be added after the words ''unit i's CEMS'' in the definition of the term ''Her_i.'' Finally, for completeness, Equations 3a and 3b would be amended by removing the terms that pertain to quarterly stack testing. Equations 3a and 3b apply *only* to the 90-group boiler operating day Hg WAER limit for coal-fired units. Coal-fired EGUs do not have the option to use quarterly stack testing to demonstrate compliance; if a coal unit does not qualify as a LEE, Hg emissions must be continuously monitored.

(c) As explained in section IV.A(11) above, we are proposing to revise paragraphs (h)(6) and (7), (i), and (j)(4)(i) and (ii) of 40 CFR 63.10010 to resolve inconsistencies in the text.

(d) We are proposing to revise 40 CFR 63.10011(e) to require Notifications of Compliance Status for initial compliance demonstrations to include the information specified in 40 CFR 63.10030(e), and to be submitted in accordance with 40 CFR 63.10031(f)(4) or (h), as applicable. This proposed change is necessary to cover initial Notifications of Compliance Status for both new and existing EGUs. The interim reporting process described in 40 CFR 63.10031(f)(4) and the on-going reporting process in 40 CFR 63.10031(h) require these Notifications to be submitted as PDF files, through ECMPS.

(e) We are proposing to revise 40 CFR 63.10011(g)(3), 40 CFR 63.10021(i), and two sentences in Items 3 and 4 of Table 3 to be consistent with 40 CFR 63.10031(i) and Table 8. For EGU owners or operators relying on paragraph (2) of the definition of ''startup'' in 40 CFR 63.10042, 40 CFR 63.10031(i) retains the requirement for the parametric data and other information in 40 CFR 63.10031(c)(5) to be included in the semiannual compliance reports, for startup and shutdown incidents that occur during the interim reporting period. However, in view of the proposed phase-out of the semiannual compliance reports, for startup and shutdown incidents that occur during each subsequent calendar quarter, starting with the first quarter of 2024, the supplementary information in 40 CFR 63.10031(c)(5)(ii) and 63.10020(e) would be required to be provided as a separate PDF submittal, along with the quarterly compliance report. As previously noted, the requirements in 40 CFR

63.10031(c)(5)(iii), (iv), and (v) to report hourly average CEMS and operating parameter values for startup and shutdown events are not proposed to be incorporated into this PDF report because they are duplicative of the hourly values reported under appendices A through D. Startup and shutdown hours are flagged in the quarterly emissions reports and can be identified for auditing purposes.

(f) We are proposing revisions to paragraphs (e)(9), (f), and (h)(3) of 40 CFR 63.10021 as follows. Paragraph (e)(9) is unchanged from the previous proposal, except that the December 31, 2017, and January 1, 2018, transition dates are replaced with December 31, 2023, and January 1, 2024, respectively. We are proposing to remove references to the EPA's ERT and the CEDRI interface from paragraph (f) and replace it with a general statement requiring all applicable notifications and reports to be submitted through the ECMPS Client Tool. We are proposing to add three statements at the end of paragraph (f). The first statement, regarding a submission deadline that occurs on a weekend or Federal holiday, extends the deadline to the next business day. The second statement addresses a submission deadline that occurs when the ECMPS system is offline for maintenance; in that case, the deadline is extended until the first business day after the system outage. The third statement clarifies that using the ECMPS Client Tool to submit a required MATS report or notification satisfies the requirement in 40 CFR 63.13 of the General Provisions to submit that same report or notification (or the information contained in it) to the appropriate EPA Regional office or state agency whose delegation request has been approved. Finally, we are proposing to remove paragraph (h)(3) because it is redundant with paragraph (i) and, therefore, unnecessary.

(g) We are proposing to remove 40 CFR 63.10030(e)(7)(i) for the following reasons. The requirement in the current rule for an initial Notification of Compliance Status to include summarized results of annual and triennial performance tests which have not been done yet is in an incorrect location. The requirement to submit these test summaries belongs in 40 CFR 63.10031, not 40 CFR 63.10030. Text similar to 40 CFR 63.10030(e)(7)(i) does, in fact, exist in 40 CFR 63.10031. Specifically, 40 CFR 63.10031(c)(7) requires the annual and triennial test results to be summarized in the semiannual compliance reports. Note, however, that when the semiannual compliance reports are phased out in 2024, the requirement to provide summarized results of these tests does not end; the test summaries must be included in the quarterly compliance reports under 40 CFR 63.10031(g).

We are proposing to amend 40 CFR 63.10030(e)(7)(iii) to rectify an inadvertent oversight. In the 2016 Technical Corrections rule package, the EPA proposed a set of conditions that would allow an EGU owner or operator to submit a request for permission to switch from a heat input-based standard to an output-based standard. One of the proposed conditions, in paragraph (e)(7)(iii)(A)(*3*) required a demonstration of compliance with both emission limits, based on ''performance stack test results completed within 30 days prior to'' the request. A commenter objected to limiting this demonstration to ''stack test'' data and asked the EPA to allow any data collected up to 45 days prior to the request, including CEMS data, to be used. In the Response to Comments document, the EPA agreed with these commenters, but did not make the necessary changes to paragraph (e)(7)(iii)(A)(*3*) in the final rule. This rule corrects this oversight. In addition, we are proposing to add a note to paragraph (e)(7)(iii) to clarify that requests to switch from one standard to the other are made subsequent to, and are not part of, the initial Notification of Compliance Status.

(h) We are proposing to amend 40 CFR 63.10032(a) to include references to the recordkeeping required under new appendices C (for PM CEMS), D (for PM CPMS), and E (for quarterly compliance reports and reference method test data). Also, in view of the move away from semiannual compliance reporting to quarterly reporting, we are proposing to replace the term ''semiannual compliance report'' with references to both semiannual and quarterly compliance reports in paragraph (a)(1).

(i) We are proposing to remove the words ''or out of control period'' from 40 CFR 63.10042, from the definition of ''monitoring system malfunction or out of control period'' because that definition does not describe an out of control period. We are proposing to add a separate definition of ''out-of-control period,'' and that definition is similar with the definition provided in the Acid Rain Program definitions at 40 CFR 72.2.

(j) We are proposing to revise Table 8 to subpart UUUUU of 40 CFR part 63 to be consistent with the amendments to 40 CFR 63.10031 and the proposed addition of appendices C, D, and E.

(k) Finally, we are proposing to revise the recordkeeping and reporting requirements in Table 9 to 40 CFR part 63, subpart UUUUU, as follows. First, we are proposing changes to the requirement to provide the information in 40 CFR 63.10030(e)(1) through (8), *i.e.,* it only applies to *initial* Notifications of Compliance Status; subsequent notifications are not required. Second, in keeping with the earlier discussion provided in section IV.A of this preamble, we are proposing to add a statement to clarify that the excess emissions recordkeeping and reporting requirements of 40 CFR 63.10(c)(7) and (8) and (e)(3)(v) and (vi) apply through December 31, 2023, when the semiannual compliance reports are phased out. On and after January 1, 2024, all relevant information will be provided in quarterly, as opposed to semiannual, reports.

VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

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

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

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

This action is considered an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the EPA's analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2137.09. You can find a copy of the ICR in the docket for this proposed rule, and it is briefly summarized here.

Respondents/affected entities: The respondents are owners or operators of fossil fuel-fired EGUs. The United States Standard Industrial Classification code for respondents affected by the rule is 4911 (Electric Services). The corresponding NAICS code is 2211100 (Electric Power Generation, Transmission, and Distribution).

Respondent's obligation to respond: Mandatory per 42 U.S.C. 7414 *et seq.*

Estimated number of respondents: 1,414.

Frequency of response: Quarterly for compliance reports.

Total estimated burden: Reduction of 11,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: Savings of $15,079,000 (per year), includes $0 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than May 11, 2020. The EPA will respond to any ICR-related comments in the final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. For purposes of assessing the impacts of this rule on small entities, the EPA considered small entities to be defined as: (1) A small business that is an electric utility producing 4 billion kilowatt-hours or less as defined by NAICS codes 221122 (fossil fuel-fired electric utility steam generating units) and 921150 (fossil fuel-fired electric utility steam generating units in Indian country); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. As required by the RFA, the EPA proposed using this alternative definition in the **Federal Register** of May 3, 2011, 76 FR 25083, sought public comment, consulted with the Small Business Administration and finalized the alternative definition in the **Federal Register** of February 16, 2012, 77 FR 9433. As stated in that document, the alternative definition would apply to this regulation. This action reduces annual burden on small and large entities. We have, therefore, concluded that this action will relieve regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments.

As described earlier, this action reduces annual burden on governments already subject to MATS; as a result, we have determined that this action will not result in any ''significant'' adverse economic impact for small governments.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. As described earlier, this action has no substantial direct effect on Indian tribes already subject to MATS, since this action reduces their annual burden. Thus, Executive Order 13175 does not apply to this action.

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

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

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

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

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this proposed action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it would not establish an environmental health or safety standard. This proposed regulatory action revises the way in which information is reported to the Agency, increasing submission frequency and making adaptions so that just one reporting system can be used, but reducing overall burden; this regulatory action does not have any impact on human health or the environment.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Andrew Wheeler,

Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 63 as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart UUUUU—National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units

§ 63.10000 [Amended]

■ 2. In § 63.10000, paragraph (d)(5)(vi) is amended by adding the words '', where appropriate,'' immediately after the words ''CMS that is out of control consistent with § 63.8(c)(7)(i)''.

■ 3. Section 63.10005 is amended by:

■ a. Revising the first sentence in paragraph (a)(2) introductory text; and
■ b. Revising paragraph (b) introductory text.

The revisions read as follows:

§ 63.10005 What are my initial compliance requirements and by what date must I conduct them?

(a) * * *

(2) To demonstrate initial compliance using either a CMS that measures HAP concentrations directly (*i.e.,* an Hg, HCl, or HF CEMS, or a sorbent trap monitoring system) or an SO_2 or PM CEMS, the initial performance test shall consist of 30- or, if applicable for Hg, 90-boiler operating days. * * *

* * * * *

(b) *Performance testing requirements.* If you choose to use performance testing to demonstrate initial compliance with the applicable emissions limits in Tables 1 and 2 to this subpart for your EGUs, you must conduct the tests according to § 63.10007 and Table 5 to this subpart. Notwithstanding the requirements in this subpart, when Table 5 specifies the use of isokinetic EPA test Method 5, 5D, 26A, or 29 in appendices A–3 and A–8 to part 60 of this chapter for a stack test, if concurrent measurement of the stack gas flow rate or moisture content is needed to convert the pollutant concentrations to units of the standard, separate determination of these parameters using EPA test Method 2 or EPA test Method 4 in appendices A–1 and A–3 to part 60 of this chapter is not necessary. Instead, the stack gas flow rate and moisture content can be determined from data that are collected during the EPA test Method 5, 5D, 6, 26A, or 29 test (*e.g.,* pitot tube (delta P) readings, moisture collected in the impingers, etc.). For the purposes of the initial compliance demonstration, you may use test data and results from a performance test conducted prior to the date on which compliance is required as specified in § 63.9984, provided that the following conditions are fully met:

* * * * *

■ 4. Section 63.10009 is amended by:
■ a. Revising in paragraph (a)(2) the second, third, and last sentences;
■ b. In paragraph (b)(2):
■ i. In the introductory text, removing the words ''for pollutants other than Hg''; and
■ ii. Adding in the definition for ''Her_i'' the words ''or sorbent trap monitoring system'' after the words ''unit i's CEMS''; and
■ c. Revising ''Equation 3a'' and ''Equation 3b'' in paragraph (b)(3).

The revisions read as follows:

§ 63.10009 May I use emissions averaging to comply with this subpart?

(a) * * *

(2) * * * Note that except for the alternate Hg emissions limit from EGUs in the ''unit designed for coal ≥ 8,300 Btu/lb'' subcategory, the averaging time for emissions averaging for pollutants is 30-group boiler operating days (rolling daily) using data from CEMS and sorbent trap monitoring (for Hg), or a combination of data from CEMS and emissions testing (for other pollutants). The averaging time for emissions averaging for the alternate Hg limit (equal to or less than 1.0 lb/TBtu or 1.1E–2 lb/GWh) from EGUs in the ''unit designed for coal ≥ 8,300 Btu/lb'' subcategory is 90-group boiler operating days (rolling daily) using data from CEMS, sorbent trap monitoring, or a combination of data from CEMS and sorbent trap monitoring. * * * You must calculate the weighted average emissions rate for the group in accordance with the procedures in this paragraph (a)(2) using the data from all units in the group including any that operate fewer than 30 (or 90) of the preceding 30 (or 90) group boiler operating days.

* * * * *

(b) * * *

(3) * * *

$$WAER = \frac{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}\left(Her_i \; x \; Rm_i\right)\right]_p}{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}\left(Rm_i\right)\right]_p} \quad \text{(Eq. 3a)}$$

Where:

Her_i = Hourly emission rate from unit i's Hg CEMS or Hg sorbent trap monitoring system for the preceding 90-group boiler operating days;

Rm_i = Hourly heat input or gross output from unit i for the preceding 90-group boiler operating days;

p = Number of EGUs in the emissions averaging group; and

n = Number of hours that hourly rates are collected over the 90-group boiler operating days.

$$WAER = \frac{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}\left(Her_i \; x \; Sm_i \; x \; Cfm_i\right)\right]_p}{\sum_{i=1}^{p}\left[\sum_{i=1}^{n}\left(Sm_i \; x \; Cfm_i\right)\right]_p} \quad \text{(Eq. 3b)}$$

Where:

Her_i = Hourly emission rate from unit i's Hg CEMS or Hg sorbent trap monitoring system for the preceding 90-group boiler operating days;

Sm_i = Steam generation in units of pounds from unit i that uses Hg CEMS or Hg sorbent trap monitoring for the preceding 90-group boiler operating days;

Cfm_i = Conversion factor, calculated from the most recent compliance test results, in units of heat input per pound of steam generated or gross output per pound of steam generated, from unit i that uses Hg CEMS or sorbent trap monitoring from the preceding 90-group boiler operating days;

p = Number of EGUs in the emissions averaging group; and

n = Number of hours that hourly rates are collected over the 90-group boiler operating days.

* * * * *

■ 5. Section 63.10010 is amended by revising paragraphs (h)(6) and (7), (i), and (j)(4) to read as follows:

§ 63.10010 What are my monitoring, installation, operation, and maintenance requirements?

* * * * *

(h) * * *

(6) You must use all the data collected during all boiler operating hours in assessing the compliance with your operating limit except:

(i) Any data recorded during periods of monitoring system malfunctions or repairs associated with monitoring system malfunctions. You must report any monitoring system malfunctions as deviations in your compliance reports under § 63.10031(c) or (g) (as applicable);

(ii) Any data recorded during periods when the monitoring system is out-of-control (as specified in your site-specific monitoring plan), repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods. You must report any such periods as deviations in your compliance reports under § 63.10031(c) or (g) (as applicable);

(iii) Any data recorded during required monitoring system quality assurance or quality control activities that temporarily interrupt the measurement of output data from the PM CPMS; and

(iv) Any data recorded during periods of startup or shutdown.

(7) You must record and report the results of PM CPMS system performance audits, in accordance with § 63.10031(k). You must also record and make available upon request the dates and duration of periods from when the PM CPMS is out of control until completion of the corrective actions necessary to return the PM CPMS to operation consistent with your site-specific monitoring plan.

(i) If you choose to comply with the PM filterable emissions limit in lieu of metal HAP limits, you may choose to install, certify, operate, and maintain a PM CEMS and record and report the output of the PM CEMS as specified in paragraphs (i)(1) through (8) of this section. Compliance with the applicable PM emissions limit in Table 1 or 2 to this subpart is determined on a 30-boiler operating day rolling average basis.

(1) You must install and certify your PM CEMS according to section 4 of appendix C to this subpart.

(2) You must operate, maintain, and quality-assure the data from your PM CEMS according to section 5 of appendix C to this subpart.

(3) You must reduce the data from your PM CEMS to hourly averages in accordance with section 6.1 of appendix C to this subpart.

(4) You must collect data using the PM CEMS at all times the process unit is operating except for periods of monitoring system malfunctions, out-of-control periods, repairs associated with monitoring system malfunctions or out-of-control periods, and required monitoring system quality assurance, quality control, or maintenance activities.

(5) You must use all the data collected during all boiler operating hours in assessing the compliance with your emissions limit except:

(i) Any data recorded during periods of monitoring system malfunctions and repairs associated with monitoring system malfunctions. You must report any monitoring system malfunctions as deviations in your compliance reports under § 63.10031(c) or (g) (as applicable);

(ii) Any data recorded during periods when the monitoring system is out-of-control (as specified in appendix C to this subpart), repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods. You must report any such periods as deviations in your compliance reports under § 63.10031(c) or (g) (as applicable);

(iii) Any data recorded during required monitoring system quality assurance, quality control, or maintenance activities that temporarily interrupt the measurement of emissions (*e.g.,* calibrations, certain audits, routine probe maintenance); and

(iv) Any data recorded during periods of startup or shutdown.

(6) You must keep records and report data from your PM CEMS in accordance with section 7 of appendix C to this subpart.

(7) You must record and make available upon request the dates and duration of periods when the PM CEMS is out-of-control to completion of the corrective actions necessary to return the PM CEMS to operation consistent with your site-specific monitoring plan.

(8) You must calculate each 30-boiler operating day rolling average PM emission rate in units of the applicable emissions limit in Table 1 or 2 to this subpart, in accordance with section 6.2.4 of appendix C to this subpart.

(j) * * *

(4) You must collect data using the HAP metals CEMS at all times the process unit is operating and at the intervals specified in paragraph (a) of this section, except for periods of monitoring system malfunctions, out-of-control periods, repairs associated with monitoring system malfunctions or out-of-control periods, and required monitoring system quality assurance, quality control, or maintenance activities.

(i) You must use all the data collected during all boiler operating hours in assessing the compliance with your emission limit except:

(A) Any data collected during periods of monitoring system malfunctions and repairs associated with monitoring system malfunctions. You must report any monitoring system malfunctions as deviations in your compliance reports under § 63.10031(c) or (g) (as applicable);

(B) Any data collected during periods when the monitoring system is out of control as specified in your site-specific monitoring plan, repairs associated with periods when the monitoring system is out of control, or required monitoring system quality assurance or quality control activities conducted during out-of-control periods. You must report any out of control periods as deviations in your compliance reports under § 63.10031(c) or (g) (as applicable);

(C) Any data recorded during required monitoring system quality assurance or quality control activities that temporarily interrupt the measurement of emissions (*e.g.,* calibrations, certain audits, routine probe maintenance); and

(D) Any data recorded during periods of startup or shutdown.

(ii) You must record and report the results of HAP metals CEMS system performance audits, in accordance with § 63.10031(k) You must also record and make available upon request the dates and duration of periods when the HAP metals CEMS is out of control to completion of the corrective actions necessary to return the HAP metals CEMS to operation consistent with your site-specific performance evaluation and quality control program plan.

* * * * *

■ 6. Section 63.10011 is amended by revising paragraphs (e) and (g)(3) to read as follows:

§ 63.10011 How do I demonstrate initial compliance with the emissions limits and work practice standards?

* * * * *

(e) You must submit a Notification of Compliance Status in accordance with § 63.10031(f)(4) or (h), as applicable, containing the results of the initial compliance demonstration, as specified in § 63.10030(e).

* * * * *

(g) * * *

(3) You must report the emissions data recorded during startup and

shutdown. If you are relying on paragraph (2) of the definition of ''startup'' in § 63.10042, then for startup and shutdown incidents that occur on or prior to December 31, 2023, you must also report the applicable supplementary information in § 63.10031(c)(5) in the semiannual compliance report. For startup and shutdown incidents that occur on or after January 1, 2024, you must provide the applicable information in §§ 63.10031(c)(5)(ii) and 63.10020(e) quarterly, in PDF files, in accordance with § 63.10031(i).

* * * * *

§ 63.10020 [Amended]

■ 7. In § 63.10020, paragraph (b) is amended by removing the words ''(see § 63.8(c)(7) of this part)''.

■ 8. Section 63.10021 is amended by:

■ a. Revising paragraphs (e)(9) and (f);

■ b. Removing and reserving paragraph (h)(3); and

■ c. Revising paragraph (i).

The revisions read as follows:

§ 63.10021 How do I demonstrate continuous compliance with the emission limitations, operating limits, and work practice standards?

* * * * *

(e) * * *

(9) Prior to January 1, 2024, report the tune-up date electronically, in a PDF file, in your semiannual compliance report, as specified in § 63.10031(f)(4) and (6) and, if requested by the Administrator, in hard copy, as specified in § 63.10031(f)(5). On and after January 1, 2024, report the tune-up date electronically in your quarterly compliance report, in accordance with § 63.10031(g) and section 10.2 of appendix E to this subpart. The tune-up report date is the date when tune-up requirements in paragraphs (e)(6) and (7) of this section are completed.

(f) You must submit the applicable reports and notifications required under § 63.10031(a) through (k) to the Administrator electronically, using EPA's Emissions Collection and Monitoring Plan System (ECMPS) Client Tool. If the final date of any time period (or any deadline) for any of these submissions falls on a weekend or a Federal holiday, the time period shall be extended to the next business day. Moreover, if the EPA Host System supporting the ECMPS Client Tool is offline and unavailable for submission of reports for any part of a day when a report would otherwise be due, the deadline for reporting is automatically extended until the first business day on which the system becomes available following the outage. Use of the ECMPS Client Tool to submit a report or notification required under this subpart satisfies any requirement under subpart A of this part to submit that same report or notification (or the information contained in it) to the appropriate EPA Regional Office or State agency whose delegation request has been approved.

* * * * *

(i) If you are relying on paragraph (2) of the definition of ''startup'' in § 63.10042, you must provide reports concerning activities and periods of startup and shutdown that occur on or prior to January 1, 2024, in accordance with § 63.10031(c)(5), in your semiannual compliance report. For startup and shutdown incidents that occur on and after January 1, 2024, you must provide the applicable information referenced in §§ 63.10031(c)(5)(ii) and 63.10020(e) quarterly, in PDF files, in accordance with § 63.10031(i).

■ 8. Section 63.10030 is amended by:

■ a. Revising the last sentence in paragraph (e) introductory text and paragraph (e)(7) introductory text;

■ b. Removing and reserving paragraph (e)(7)(i);

■ c. Revising paragraphs (e)(7)(iii) introductory text and (e)(7)(iii)(A)(*3*);

■ d. Adding in paragraph (e)(7)(iii)(B) the word ''must'' after the word ''You''; and

■ e. Adding in paragraph (e)(7)(iii)(C) the word ''must'' after the word ''you''.

The revisions read as follows:

§ 63.10030 What notifications must I submit and when?

* * * * *

(e) * * * The Notification of Compliance Status report must contain all of the information specified in paragraphs (e)(1) through (8) of this section that applies to your initial compliance strategy.

* * * * *

(7) Except for requests to switch from one emission limit to another, as provided in paragraph (e)(7)(iii) of this section, your initial notification of compliance status shall also include the following information:

* * * * *

(iii) For each of your existing EGUs, identification of each emissions limit specified in Table 2 to this subpart with which you plan to comply initially. (*Note:* If, at some future date, you wish to switch from the limit specified in your initial notification of compliance status, you must follow the procedures and meet the conditions of paragraphs (e)(7)(iii)(A) through (C) of this section.)

(A) * * *

(*3*) Your request includes performance stack test results or valid CMS data, obtained within 45 days prior to the date of your submission, demonstrating that each EGU or EGU emissions averaging group is in compliance with both the mass per heat input limit and the mass per gross output limit;

* * * * *

■ 9. Section 63.10031 is amended by:

■ a. Revising paragraphs (a), (b) introductory text, (b)(1), (2), (4), and (5), and (c) introductory text;

■ b. Removing paragraphs (c)(5)(iii), (iv), and (v);

■ c. Adding paragraph (c)(10);

■ d. Revising paragraphs (d), (e), (f) introductory text, and (f)(1) and (2);

■ e. Removing and reserving paragraph (f)(3);

■ f. Revising paragraphs (f)(4), (f)(6) introductory text, (f)(6)(vii) and (xi), and (g); and

■ g. Adding paragraphs (h) through (k).

The revisions and additions read as follows:

§ 63.10031 What reports must I submit and when?

(a) You must submit each report in this section that applies to you.

(1) If you are required to (or elect to) monitor Hg emissions continuously, you must meet the electronic reporting requirements of appendix A to this subpart.

(2) If you elect to monitor HCl and/or HF emissions continuously, you must meet the electronic reporting requirements of appendix B to this subpart. Notwithstanding the requirement in this paragraph (a)(2), if you opt to certify your HCl monitor according to Performance Specification 18 in appendix B to part 60 of this chapter and to use Procedure 6 in appendix F to part 60 of this chapter for on-going QA of the monitor, then, on and prior to December 31, 2023, report only hourly HCl emissions data and the results of daily calibration drift tests and RATAs performed on or prior to that date; keep records of all of the other required certification and QA tests and report them, starting in 2024.

(3) If you elect to monitor filterable PM emissions continuously, you must meet the electronic reporting requirements of appendix C to this subpart. Electronic reporting of hourly PM emissions data shall begin with the later of: The first operating hour on or after January 1, 2024; or the first operating hour after completion of the initial PM CEMS correlation test.

(4) If you elect to demonstrate continuous compliance using a PM CPMS, you must meet the electronic reporting requirements of appendix D to this subpart. Electronic reporting of the hourly PM CPMS output shall begin

with the later of: The first operating hour on or after January 1, 2024; or the first operating hour after completion of the initial performance stack test that establishes the operating limit for the PM CPMS.

(5) If you elect to monitor SO_2 emission rate continuously as a surrogate for HCl, you must use the ECMPS Client Tool to submit the following information to EPA (except where it is already required to be reported or has been previously provided under the Acid Rain Program or another emissions reduction program that requires the use of part 75 of this chapter):

(i) Monitoring plan information for the SO_2 CEMS and for any additional monitoring systems that are required to convert SO_2 concentrations to units of the emission standard, in accordance with §§ 75.62 and 75.64(a)(4) of this chapter;

(ii) Certification, recertification, quality-assurance, and diagnostic test results for the SO_2 CEMS and for any additional monitoring systems that are required to convert SO_2 concentrations to units of the emission standard, in accordance with § 75.64(a)(5) of this chapter; and

(iii) Quarterly electronic emissions reports. You must submit an electronic quarterly report within 30 days after the end of each calendar quarter, starting with a report for the calendar quarter in which the initial 30 boiler operating day performance test begins. Each report must include the following information:

(A) The applicable operating data specified in § 75.57(b) of this chapter;

(B) An hourly data stream for the unadjusted SO_2 concentration (in ppm, rounded to one decimal place), and separate unadjusted hourly data streams for the other parameters needed to convert the SO_2 concentrations to units of the standard. (*Note:* If a default moisture value is used in the emission rate calculations, an hourly data stream is not required for moisture; rather, the default value must be reported in the electronic monitoring plan.);

(C) An hourly SO_2 emission rate data stream, in units of the standard (*i.e.,* lb/MMBtu or lb/MWh, as applicable), calculated according to § 63.10007(e) and (f)(1), rounded to the same precision as the emission standard (*i.e.,* with one leading non-zero digit and one decimal place), expressed in scientific notation. Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged;

(D) The results of all required daily quality-assurance tests of the SO_2 monitor and the additional monitors used to convert SO_2 concentration to units of the standard, as specified in appendix B to part 75 of this chapter; and

(E) A compliance certification, which includes a statement, based on reasonable inquiry of those persons with primary responsibility for ensuring that all SO_2 emissions from the affected EGUs under this subpart have been correctly and fully monitored, by a responsible official with that official's name, title, and signature, certifying that, to the best of his or her knowledge, the report is true, accurate, and complete. You must submit such a compliance certification statement in support of each quarterly report.

(b) You must submit semiannual compliance reports according to the requirements in paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.9984 (or, if applicable, the extended compliance date approved under § 63.6(i)(4)) and ending on June 30 or December 31, whichever date is the first date that occurs at least 180 days after the compliance date that is specified for your source in § 63.9984 (or, if applicable, the extended compliance date approved under § 63.6(i)(4)).

(2) The first compliance report must be submitted electronically no later than July 31 or January 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.9984 (or, if applicable, the extended compliance date approved under § 63.6(i)(4)).

* * * * *

(4) Each subsequent compliance report must be submitted electronically no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) The final semiannual compliance report shall cover the reporting period from July 1, 2023 through December 31, 2023. Quarterly compliance reports shall be submitted thereafter, in accordance with paragraph (g) of this section, starting with a report covering the first calendar quarter of 2024.

(c) The semiannual compliance report must contain the information required in paragraphs (c)(1) through (10) of this section.

* * * * *

(10) If you had any process or control equipment malfunction(s) during the reporting period, you must include the number, duration, and a brief description for each type of malfunction which occurred during the semiannual reporting period which caused or may have caused any applicable emission limitation to be exceeded.

(d) For EGUs whose owners or operators rely on a CMS to comply with an emissions or operating limit, the semiannual compliance reports described in paragraph (c) of this section must include the excess emissions and monitor downtime summary report described in § 63.10(e)(3)(vi). However, starting with the first calendar quarter of 2024, reporting of the information under § 63.10(e)(3)(vi) (and under paragraph (e)(3)(v), if the applicable excess emissions and/or monitor downtime threshold is exceeded) is discontinued for all CMS, and you must, instead, include in the quarterly compliance reports described in paragraph (g) of this section the applicable data elements in section 13 of appendix E to this subpart for any ''deviation'' (as defined in § 63.10042 and elsewhere in this subpart) that occurred during the calendar quarter. If there were no deviations, you must include a statement to that effect in the quarterly compliance report.

(e) Each affected source that has obtained a title V operating permit pursuant to part 70 or 71 of this chapter must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A). If an affected source submits a semiannual compliance report pursuant paragraphs (c) and (d) of this section, or two quarterly compliance reports covering the appropriate calendar half pursuant to paragraph (g) of this section, along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A), and the compliance report(s) includes all required information concerning deviations from any emission limit, operating limit, or work practice requirement in this subpart, submission of the compliance report(s) satisfies any obligation to report the same deviations in the semiannual monitoring report. Submission of the compliance report(s) does not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

(f) For each performance stack test completed prior to January 1, 2024 (including 30- (or 90-) boiler operating day Hg LEE demonstration tests and PM

tests to establish operating limits for PM CPMS), you must submit a PDF test report in accordance with paragraph (f)(6) of this section, no later than 60 days after the date on which the testing is completed. For each test completed on or after January 1, 2024, in accordance with § 63.10031(g), submit the applicable reference method information in sections 17 through 31 of appendix E to this subpart along with the quarterly compliance report for the calendar quarter in which the test was completed.

(1) For each relative accuracy test audit (RATA) of an Hg, HCl, HF, or SO_2 monitoring system completed prior to January 1, 2024, and for each PM CEMS correlation test, each relative response audit (RRA) and each response correlation audit (RCA) of a PM CEMS completed prior to that date, you must submit a PDF test report in accordance with paragraph (f)(6) of this section, no later than 60 days after the date on which the test is completed. For each SO_2 or Hg RATA completed on or after January 1, 2024, you must submit the applicable reference method information in sections 17 through 31 of appendix E to this subpart prior to or concurrent with the relevant quarterly emissions report. For HCl or HF RATAs, and for correlation tests, RRAs, and RCAs of PM CEMS that are completed on or after January 1, 2024, submit the appendix E reference method information together with the summarized electronic test results, in accordance with section 11.4 of appendix B to this subpart or section 7.2.4 of appendix C to this part, as applicable.

(2) If, for a particular EGU or a group of EGUs serving a common stack, you have elected to demonstrate compliance using a PM CEMS, an approved HAP metals CEMS, or a PM CPMS, you must submit quarterly PDF reports in accordance with paragraph (f)(6) of this section, which include all of the 30-boiler operating day rolling average emission rates derived from the CEMS data or the 30-boiler operating day rolling average responses derived from the PM CPMS data (as applicable). The quarterly reports are due within 60 days after the reporting periods ending on March 31st, June 30th, September 30th, and December 31st. Submission of these quarterly reports in PDF files shall end with the report that covers the fourth calendar quarter of 2023. Beginning with the first calendar quarter of 2024, the compliance averages shall no longer be reported separately, but shall be incorporated into the quarterly compliance reports described in paragraph (g) of this section. In addition to the compliance averages for PM CEMS, PM CPMS, and/or HAP metals CEMS, the quarterly compliance reports described in paragraph (g) of this section must also include the 30- (or, if applicable 90-) boiler operating day rolling average emission rates for Hg, HCl, HF, and/or SO_2, if you have elected to (or are required to) continuously monitor these pollutants. Further, if your EGU or common stack is in an averaging plan, your quarterly compliance reports must identify all of the EGUs or common stacks in the plan and must include all of the 30- (or 90-) group boiler operating day rolling weighted average emission rates (WAERs) for the averaging group.

* * * * *

(4) You must submit semiannual compliance reports as required under paragraphs (b) through (d) of this section, ending with a report covering the semiannual period from July 1 through December 31, 2023, and Notifications of Compliance Status as required under § 63.10030(e), as PDF files. Quarterly compliance reports shall be submitted in XML format thereafter, in accordance with paragraph (g) of this section, starting with a report covering the first calendar quarter of 2024.

* * * * *

(6) All reports and notifications described in paragraphs (f) introductory text and (f)(1), (2), and (4) of this section shall be submitted to the EPA in the specified format and at the specified frequency, using the ECMPS Client Tool. Each PDF version of a stack test report, CEMS RATA report, PM CEMS correlation test report, RRA report, and RCA report must include sufficient information to assess compliance and to demonstrate that the reference method testing was done properly. Note that EPA will continue to accept, as necessary, PDF reports that are being phased out at the end of 2023, if the submission deadlines for those reports extend beyond December 31, 2023. The following data elements must be entered into the ECMPS Client Tool at the time of submission of each PDF file:

* * * * *

(vii) An indication of the type of PDF report or notification being submitted;

* * * * *

(xi) The date the performance test was completed (if applicable) and the test number (if applicable); and

* * * * *

(g) Starting with a report for the first calendar quarter of 2024, you must use the ECMPS Client Tool to submit quarterly electronic compliance reports. Each quarterly compliance report shall include the applicable data elements in sections 2 through 13 of appendix E to this subpart. For each stack test summarized in the compliance report, you must also submit the applicable reference method information in sections 17 through 31 of appendix E to this subpart. The compliance reports and associated appendix E information must be submitted no later than 60 days after the end of each calendar quarter.

(h) On and after January 1, 2024, initial Notifications of Compliance Status (if any) shall be submitted in accordance with § 63.9(h)(2)(ii), as PDF files, using the ECMPS Client Tool. The applicable data elements in paragraphs (f)(6)(i) through (xii) of this section must be entered into ECMPS with each Notification.

(i) If you have elected to use paragraph (2) of the definition of ''startup'' in § 63.10042, then, for startup and shutdown incidents that occur on or prior to December 31, 2023, you must include the information in § 63.10031(c)(5) in the semiannual compliance report, in a PDF file. If you have elected to use paragraph (2) of the definition of ''startup'' in § 63.10042, then, for startup and shutdown event(s) that occur on or after January 1, 2024, you must use the ECMPS Client Tool to submit the information in §§ 63.10031(c)(5) and 63.10020(e) along with each quarterly compliance report, in a PDF file, starting with a report for the first calendar quarter of 2024. The applicable data elements in paragraphs (f)(6)(i) through (xii) of this section must be entered into ECMPS with each startup and shutdown report.

(j) If you elect to use a certified PM CEMS to monitor PM emissions continuously to demonstrate compliance with this subpart and have begun recording valid data from the PM CEMS prior to [DATE 60 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], you must use the ECMPS Client Tool to submit a detailed report of your PS 11 correlation test (see appendix B to part 60 of this chapter) in a PDF file no later than 60 days after that date. For a correlation test completed on or after [DATE 60 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], but prior to January 1, 2024, you must submit the PDF report no later than 60 days after the date on which the test is completed. For a correlation test completed on or after January 1, 2024, you must submit the PDF report according to section 7.2.4 of appendix C to this subpart. The applicable data elements in paragraphs (f)(6)(i) through (xii) of this section must

be entered into ECMPS with the PDF report.

(k) If you elect to demonstrate compliance using a PM CPMS or an approved HAP metals CEMS, you must submit quarterly reports of your QA/QC activities (*e.g.,* calibration checks, performance audits), in a PDF file, beginning with a report for the first quarter of 2024, if the PM CPMS or HAP metals CEMS is used for the compliance demonstration in that quarter. Otherwise, submit a report for the first calendar quarter in which the PM CPMS or HAP metals CEMS is used to demonstrate compliance. These reports are due no later than 60 days after the end of each calendar quarter. The applicable data elements in paragraphs (f)(6)(i) through (xii) of this section must be entered into ECMPS with the PDF report.

■ 10. Section 63.10032 is amended by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 63.10032 What records must I keep?

(a) You must keep records according to paragraphs (a)(1) and (2) of this section. If you are required to (or elect to) continuously monitor Hg and/or HCl and/or HF and/or PM emissions, or if you elect to use a PM CPMS, you must keep the records required under appendix A and/or appendix B and/or appendix C and/or appendix D to this subpart. If you elect to conduct periodic (*e.g.,* quarterly or annual) performance stack tests, then, for each test completed on or after January 1, 2024, you must keep records of the applicable data elements under § 63.7(g). You must also keep records of all data elements and other information in appendix E to this subpart that apply to your compliance strategy.

(1) In accordance with § 63.10(b)(2)(xiv), a copy of each notification or report that you submit to comply with this subpart. You must also keep records of all supporting documentation for the initial Notifications of Compliance Status, semiannual compliance reports, or quarterly compliance reports that you submit.

* * * * *

■ 11. Section 63.10042 is amended by:

■ a. In the definition ''Diluent cap,'' adding ''PM,'' after ''HF,'';

■ b. In the definition ''Monitoring system malfunction or out of control period,'' removing the words ''or out of control period''; and

■ c. Adding the definition ''Out of control period'' in alphabetical order.

The addition reads as follows:

§ 63.10042 What definitions apply to this subpart?

* * * * *

Out-of-control period, as it pertains to continuous monitoring systems, means any period:

(1) Beginning with the hour corresponding to the completion of a daily calibration or quality assurance audit that indicates that the instrument fails to meet the applicable acceptance criteria; and

(2) Ending with the hour corresponding to the completion of an additional calibration or quality assurance audit following corrective action showing that the instrument meets the applicable acceptance criteria.

* * * * *

■ 12. Table 3 to subpart UUUUU is amended by revising the entries ''3. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during startup'' and ''4. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during shutdown'' to read as follows:

TABLE 3 TO SUBPART UUUUU OF PART 63—WORK PRACTICE STANDARDS

[* * * * * * *]

If your EGU is . . .	You must meet the following . . .
* * * * * * *	
3. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during startup.	a. You have the option of complying using either of the following work practice standards: (1) If you choose to comply using paragraph (1) of the definition of ''startup'' in § 63.10042, you must operate all CMS during startup. Startup means either the first-ever firing of fuel in a boiler for the purpose of producing electricity, or the firing of fuel in a boiler after a shutdown event for any purpose. Startup ends when any of the steam from the boiler is used to generate electricity for sale over the grid or for any other purpose (including on site use). For start-up of a unit, you must use clean fuels as defined in § 63.10042 for ignition. Once you convert to firing coal, residual oil, or solid oil-derived fuel, you must engage all of the applicable control technologies except dry scrubber and SCR. You must start your dry scrubber and SCR systems, if present, appropriately to comply with relevant standards applicable during normal operation. You must comply with all applicable emissions limits at all times except for periods that meet the applicable definitions of startup and shutdown in this subpart. You must keep records during startup periods. You must provide reports concerning activities and startup periods, as specified in § 63.10011(g) and § 63.10021(h) and (i). If you elect to use paragraph (2) of the definition of ''startup'' in § 63.10042, you must report the applicable information in § 63.10031(c)(5) concerning startup periods as follows: for startup periods that occur on or prior to December 31, 2023 in PDF files in the semiannual compliance report; for startup periods that occur on or after January 1, 2024, quarterly, in PDF files, according to § 63.10031(i). (2) If you choose to comply using paragraph (2) of the definition of ''startup'' in § 63.10042, you must operate all CMS during startup. You must also collect appropriate data, and you must calculate the pollutant emission rate for each hour of startup. For startup of an EGU, you must use one or a combination of the clean fuels defined in § 63.10042 to the maximum extent possible, taking into account considerations such as boiler or control device integrity, throughout the startup period. You must have sufficient clean fuel capacity to engage and operate your PM control device within one hour of adding coal, residual oil, or solid oil-derived fuel to the unit. You must meet the startup period work practice requirements as identified in § 63.10020(e). Once you start firing coal, residual oil, or solid oil-derived fuel, you must vent emissions to the main stack(s). You must comply with the applicable emission limits beginning with the hour after startup ends. You must engage and operate your particulate matter control(s) within 1 hour of first firing of coal, residual oil, or solid oil-derived fuel. You must start all other applicable control devices as expeditiously as possible, considering safety and manufacturer/supplier recommendations, but, in any case, when necessary to comply with other standards made applicable to the EGU by a permit limit or a rule other than this Subpart that require operation of the control devices.

TABLE 3 TO SUBPART UUUUU OF PART 63—WORK PRACTICE STANDARDS—Continued

[* * * * * * *]

If your EGU is . . .	You must meet the following . . .
	b. Relative to the syngas not fired in the combustion turbine of an IGCC EGU during startup, you must either: (1) Flare the syngas, or (2) route the syngas to duct burners, which may need to be installed, and route the flue gas from the duct burners to the heat recovery steam generator. c. If you choose to use just one set of sorbent traps to demonstrate compliance with the applicable Hg emission limit, you must comply with the limit at all times; otherwise, you must comply with the applicable emission limit at all times except for startup and shutdown periods. d. You must collect monitoring data during startup periods, as specified in § 63.10020(a) and (e). You must keep records during startup periods, as provided in §§ 63.10032 and 63.10021(h). You must provide reports concerning activities and startup periods, as specified in §§ 63.10011(g), 63.10021(i), and 63.10031. If you elect to use paragraph (2) of the definition of "startup" in § 63.10042, you must report the applicable information in § 63.10031(c)(5) concerning startup periods as follows: for startup periods that occur on or prior to December 31, 2023, in PDF files in the semiannual compliance report; for startup periods that occur on or after January 1, 2024, quarterly, in PDF files, according to § 63.10031(i).
4. A coal-fired, liquid oil-fired (excluding limited-use liquid oil-fired subcategory units), or solid oil-derived fuel-fired EGU during shutdown.	You must operate all CMS during shutdown. You must also collect appropriate data, and you must calculate the pollutant emission rate for each hour of shutdown for those pollutants for which a CMS is used. While firing coal, residual oil, or solid oil-derived fuel during shutdown, you must vent emissions to the main stack(s) and operate all applicable control devices and continue to operate those control devices after the cessation of coal, residual oil, or solid oil-derived fuel being fed into the EGU and for as long as possible thereafter considering operational and safety concerns. In any case, you must operate your controls when necessary to comply with other standards made applicable to the EGU by a permit limit or a rule other than this Subpart and that require operation of the control devices. If, in addition to the fuel used prior to initiation of shutdown, another fuel must be used to support the shutdown process, that additional fuel must be one or a combination of the clean fuels defined in § 63.10042 and must be used to the maximum extent possible, taking into account considerations such as not compromising boiler or control device integrity. Relative to the syngas not fired in the combustion turbine of an IGCC EGU during shutdown, you must either: (1) Flare the syngas, or (2) route the syngas to duct burners, which may need to be installed, and route the flue gas from the duct burners to the heat recovery steam generator. You must comply with all applicable emission limits at all times except during startup periods and shutdown periods at which time you must meet this work practice. You must collect monitoring data during shutdown periods, as specified in § 63.10020(a). You must keep records during shutdown periods, as provided in §§ 63.10032 and 63.10021(h). Any fraction of an hour in which shutdown occurs constitutes a full hour of shutdown. You must provide reports concerning activities and shutdown periods, as specified in §§ 63.10011(g), 63.10021(i), and 63.10031. If you elect to use paragraph (2) of the definition of "startup" in § 63.10042, you must report the applicable information in § 63.10031(c)(5) concerning shutdown periods as follows: for shutdown periods that occur on or prior to December 31, 2023, in PDF files in the semiannual compliance report; for shutdown periods that occur on or after January 1, 2024, quarterly, in PDF files, according to § 63.10031(i).

■ 13. Table 8 to subpart UUUUU is revised to read as follows:

TABLE 8 TO SUBPART UUUUU OF PART 63—REPORTING REQUIREMENTS

[In accordance with § 63.10031, you must meet the following reporting requirements, as they apply to your compliance strategy]

You must submit the following reports . . .
1. The electronic reports required under § 63.10031(a)(1), if you continuously monitor Hg emissions.
2. The electronic reports required under § 63.10031(a)(2), if you continuously monitor HCl and/or HF emissions. Where applicable, these reports are due no later than 30 days after the end of each calendar quarter.
3. The electronic reports required under § 63.10031(a)(3), if you continuously monitor PM emissions. Reporting of hourly PM emissions data using ECMPS shall begin with the first operating hour after: January 1, 2024 or the hour of completion of the initial PM CEMS correlation test, whichever is later. Where applicable, these reports are due no later than 30 days after the end of each calendar quarter.
4. The electronic reports required under § 63.10031(a)(4), if you elect to use a PM CPMS. Reporting of hourly PM CPMS response data using ECMPS shall begin with the first operating hour after January 1, 2024 or the first operating hour after completion of the initial performance stack test that establishes the operating limit for the PM CPMS, whichever is later. Where applicable, these reports are due no later than 30 days after the end of each calendar quarter.
5. The electronic reports required under § 63.10031(a)(5), if you continuously monitor SO_2 emissions. Where applicable, these reports are due no later than 30 days after the end of each calendar quarter.
6. PDF reports for all performance stack tests completed prior to January 1, 2024 (including 30- or 90-boiler operating day Hg LEE test reports and PM test reports to set operating limits for PM CPMS), according to § 63.10031(f) introductory text and (f)(6). For each test, submit the PDF report no later than 60 days after the date on which testing is completed. For a PM test that is used to set an operating limit for a PM CPMS, the report must also include the information in § 63.10023(b)(2)(vi). For each performance stack test completed on or after January 1, 2024, submit the test results in the relevant quarterly compliance report under § 63.10031(g), together with the applicable reference method information in sections 17 through 31 of appendix E to this subpart.
7. PDF reports for all RATAs of Hg, HCl, HF, and/or SO_2 monitoring systems completed prior to January 1, 2024, and for correlation tests, RRAs and/or RCAs of PM CEMS completed prior to January 1, 2024, according to § 63.10031(f)(1) and (6). For each test, submit the PDF report no later than 60 days after the date on which testing is completed.

TABLE 8 TO SUBPART UUUUU OF PART 63—REPORTING REQUIREMENTS—Continued

[In accordance with § 63.10031, you must meet the following reporting requirements, as they apply to your compliance strategy]

You must submit the following reports . . .
For each SO_2 or Hg system RATA completed on or after January 1, 2024, submit the electronic test summary required by appendix A to this subpart or part 75 of this chapter (as applicable) together with the applicable reference method information in sections 17–30 of appendix E to this subpart, either prior to or concurrent with the relevant quarterly emissions report.
For each HCl or HF system RATA, and for each correlation test, RRA, and RCA of a PM CEMS completed on or after January 1, 2024, submit the electronic test summary in accordance with section 11.4 of appendix B to this subpart or section 7.2.4 of appendix C to this part, as applicable, together with the applicable reference method information in sections 17–30 of appendix E to this subpart.
8. Quarterly reports, in PDF files, that include all 30-boiler operating day rolling averages in the reporting period derived from your PM CEMS, approved HAP metals CEMS, and/or PM CPMS, according to § 63.10031(f)(2) and (6). These reports are due no later than 60 days after the end of each calendar quarter.
The final quarterly rolling averages report in PDF files shall cover the fourth calendar quarter of 2023.
Starting with the first quarter of 2024, you must report all 30-boiler operating day rolling averages for PM CEMS, approved HAP metals CEMS, PM CPMS, Hg CEMS, Hg sorbent trap systems, HCl CEMS, HF CEMS, and/or SO_2 CEMS (or 90-boiler operating day rolling averages for Hg systems), in XML format, in the quarterly compliance reports required under § 63.10031(g).
If your EGU or common stack is in an averaging plan, each quarterly compliance report must identify the EGUs in the plan and include all of the 30- or 90- group boiler operating day weighted average emission rates (WAERs) for the averaging group.
The quarterly compliance reports must be submitted no later than 60 days after the end of each calendar quarter.
9. The semiannual compliance reports described in § 63.10031(c) and (d), in PDF files, according to § 63.10031(f)(4) and (6). The due dates for these reports are specified in § 63.10031(b).
The final semiannual compliance report shall cover the period from July 1, 2023 through December 31, 2023.
10. Notifications of compliance status, in PDF files, according to § 63.10031(f)(4) and (6) until December 31, 2023, and according to § 63.10031(h) thereafter.
11. Quarterly electronic compliance reports, in accordance with § 63.10031(g), starting with a report for the first calendar quarter of 2024. The reports must be in XML format and must include the applicable data elements in sections 2 through 13 of appendix E to this subpart.
These reports are due no later than 60 days after the end of each calendar quarter.
12. Quarterly reports, in PDF files, that include the applicable information in §§ 63.10031(c)(5)(ii) and 63.10020(e) pertaining to startup and shutdown events, starting with a report for the first calendar quarter of 2024, if you have elected to use paragraph (2) of the definition of ''startup'' in § 63.10042 (see § 63.10031(i)).
These PDF reports shall be submitted no later than 60 days after the end of each calendar quarter, along with the quarterly compliance reports required under § 63.10031(g).
13. A test report for the PS 11 correlation test (see appendix B to part 60 of this chapter) of your PM CEMS, in accordance with § 63.10031(j).
If, prior to [DATE 60 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], you have begun using a certified PM CEMS to demonstrate compliance with this subpart, use the ECMPS Client Tool to submit the report, in a PDF file, no later than 60 days after that date.
For correlation tests completed on or after [DATE 60 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**], but prior to January 1, 2024, submit the report, in a PDF file, no later than 60 days after the date on which the test is completed.
For correlation tests completed on or after January 1, 2024, submit the test results electronically, according to section 7.2.4 of appendix C to this subpart, together with the applicable reference method data in sections 17 through 31 of appendix E to this subpart.
14. Quarterly reports that include the QA/QC activities for your PM CPMS or approved HAP metals CEMS (as applicable), in PDF files, according to § 63.10031(k).
The first report shall cover the first calendar quarter of 2024, if the PM CPMS or HAP metals CEMS is in use during that quarter. Otherwise, reporting begins with the first calendar quarter in which the PM CPMS or HAP metals CEMS is used to demonstrate compliance.
These reports are due no later than 60 days after the end of each calendar quarter.

■ 14. Table 9 to subpart UUUUU is amended by:

■ a. Revising the entries ''§ 63.9'', ''§ 63.10(c)(7)'', and ''§ 63.10(c)(8)''; and

■ b. Adding the entry ''§ 63.10(e)(3)(v) and (vi)'' in numerical order.

The addition and revisions read as follows:

* * * * *

TABLE 9 TO SUBPART UUUUU OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART UUUUU

[* * * * * * *]

Citation	Subject	Applies to subpart UUUUU
*	*	*
§ 63.9	Notification Requirements	Yes, except (1) for the 60-day notification prior to conducting a performance test in § 63.9(e); instead use a 30-day notification period per § 63.10030(d), (2) the notification of the CMS performance evaluation in § 63.9(g)(1) is limited to RATAs, and (3) the information required per § 63.9(h)(2)(i); instead provide the applicable information in § 63.10030(e)(1) through (e)(8), for the initial notification of compliance status, only.

TABLE 9 TO SUBPART UUUUU OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART UUUUU—Continued

[* * * * * * *]

Citation	Subject	Applies to subpart UUUUU
* * * * * * *		
§ 63.10(c)(7)	Additional recordkeeping requirements for CMS—identifying exceedances and excess emissions.	Applies only through December 31, 2023.
§ 63.10(c)(8)	Additional recordkeeping requirements for CMS—identifying exceedances and excess emissions.	Applies only through December 31, 2023.
* * * * * * *		
§ 63.10(e)(3)(v) and (vi)	Excess emissions and continuous monitoring system performance reports.	Applies only through December 31, 2023.
* * * * * * *		

■ 15. Appendix A to subpart UUUUU is amended by revising sections ''7.1.3.3'', ''7.1.4.3'', ''7.1.8.2'' and ''7.2.3.1'' to read as follows:

Appendix A to Subpart UUUUU of Part 63—HG Monitoring Provisions

* * * * *

7. Recordkeeping and Reporting

* * * * *

7.1.3.3 The hourly Hg concentration, if a quality-assured value is obtained for the hour (µg/scm, with one leading non-zero digit and one decimal place, expressed in scientific notation). Use the following rounding convention: if the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged;

* * * * *

7.1.4.3 The hourly Hg concentration, if a quality-assured value is obtained for the hour (µg/scm, with one leading non-zero digit and one decimal place, expressed in scientific notation). Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged. Note that when a single quality-assured Hg concentration value is obtained for a particular data collection period, that single concentration value is applied to each operating hour of the data collection period.

* * * * *

7.1.8.2 The hourly Hg emissions rate (lb/TBtu or lb/GWh, as applicable), calculated according to section 6.2.1 or 6.2.2 of this appendix, rounded to the same precision as the standard (*i.e.,* with one leading non-zero digit and one decimal place, expressed in scientific notation), if valid values of Hg concentration and all other required parameters (stack gas volumetric flow rate, diluent gas concentration, electrical load, and moisture data, as applicable) are obtained for the hour. Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged;

* * * * *

7.2.3.1 For an EGU that begins reporting hourly Hg concentrations with a previously-certified Hg monitoring system, submit the monitoring plan information in section 7.1.1.2 of this appendix prior to or concurrent with the first required quarterly emissions report. For a new EGU, or for an EGU switching to continuous monitoring of Hg emissions after having implemented another allowable compliance option under this subpart, submit the information in section 7.1.1.2 of this appendix at least 21 days prior to the start of initial certification testing of the CEMS. Also submit the monitoring plan information in 40 CFR 75.53(g) pertaining to any required flow rate, diluent gas, and moisture monitoring systems within the applicable time frame specified in this section, if the required records are not already in place.

* * * * *

■ 16. Appendix B to subpart UUUUU is amended by:

■ a. Revising the heading and introductory text of section 2.3 and sections ''9.4'', ''10.1.3.3'', ''10.1.7.2'', ''10.1.8.1.1'', ''10.1.8.1.2'', and ''10.1.8.1.3'';

■ b. Adding sections ''10.1.8.1.4'' through ''10.1.8.1.12'' in numerical order;

■ c. Revising sections ''11.3.1'', ''11.4 introductory text'', and ''11.4.1'';

■ d. Adding sections ''11.4.1.1'' through ''11.4.1.9'' in numerical order;

■ e. Revising sections ''11.4.2 introductory text'', ''11.4.3.11'', and ''11.4.3.12'';

■ f. Redesignating section ''11.4.3.13'' as ''11.4.3.14'';

■ g. Adding new section ''11.4.3.13'';

■ h. Revising newly redesignated section ''11.4.3.14'';

■ i. Redesignating section ''11.4.4'' as ''11.4.13'';

■ j. Adding sections: ''11.4.4 introductory text''; ''11.4.4.1 through 11.4.4.7''; ''11.4.5 introductory text''; ''11.4.5.1''; ''11.4.5.1.1 through 11.4.5.1.9''; ''11.4.5.2 introductory text''; ''11.4.5.2.1 through 11.4.5.2.6''; ''11.4.6 introductory text''; ''11.4.6.1 through 11.4.6.8'', ''11.4.7 introductory text''; ''11.4.7.1 through 11.4.7.6''; ''11.4.8 introductory text''; ''11.4.8.1 through 11.4.8.15''; ''11.4.9 introductory text''; ''11.4.9.1 through 11.4.9.5''; ''11.4.10 introductory text''; ''11.4.10.1 through 11.4.10.8''; ''11.4.11 introductory text''; ''11.4.11.1 through 11.4.11.7''; ''11.4.12 introductory text''; and ''11.4.12.1 through 11.4.12.9''; and

■ k. Revising newly redesignated section ''11.4.13'' and section ''11.5.1''.

The revisions and additions read as follows:

Appendix B to Subpart UUUUU of Part 63—HC_L and HF Monitoring Provisions

* * * * *

2. Monitoring of HCl and/or HF Emissions

* * * * *

2.3 *Monitoring System Equipment, Supplies, Definitions, and General Operation.* The following provisions apply:

* * * * *

9. Data Reduction and Calculations

* * * * *

9.4 Use Equation A–5 in appendix A of this subpart to calculate the required 30-boiler operating day rolling average HCl or HF emission rates. Report each 30-boiler operating day rolling average to the same precision as the standard (*i.e.,* with one leading non-zero digit and one decimal place), expressed in scientific notation. The

term E_{ho} in Equation A–5 must be in the units of the applicable emissions limit.

* * * * *

10. Recordkeeping Requirements

* * * * *

10.1.3.3 The pollutant concentration, for each hour in which a quality-assured value is obtained. For HCl and HF, record the data in parts per million (ppm), with one leading non-zero digit and one decimal place, expressed in scientific notation. Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged.

* * * * *

10.1.7.2 The hourly HCl and/or HF emissions rate (lb/MMBtu, or lb/MWh, as applicable), for each hour in which valid values of HCl or HF concentration and all other required parameters (stack gas volumetric flow rate, diluent gas concentration, electrical load, and moisture data, as applicable) are obtained for the hour. Round off the emission rate to the same precision as the standard (*i.e.,* with one leading non-zero digit and one decimal place, expressed in scientific notation). Use the following rounding convention: If the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged;

* * * * *

10.1.8.1.1 For each required 7-day and daily calibration drift test or daily calibration error test (including daily calibration transfer standard tests) of the HCl or HF CEMS, record the test date(s) and time(s), reference gas value(s), monitor response(s), and calculated calibration drift or calibration error value(s). If you use the dynamic spiking option for the mid-level calibration drift check under PS 18 of appendix B to part 60 of this chapter, you must also record the measured concentration of the native HCl in the flue gas before and after the spike and the spiked gas dilution factor. When using an IP–CEMS under PS 18, you must also record the measured concentrations of the native HCl before and after introduction of each reference gas, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the instrument line strength factor, and the calculated equivalent concentration of reference gas.

10.1.8.1.2 For the required gas audits of an FTIR HCl or HF CEMS that is following PS 15 of appendix B to part 60 of this chapter, record the date and time of each spiked and unspiked sample, the audit gas reference values and uncertainties. Keep records of all calculations and data analyses required under sections 9.1 and 12.1 of Performance Specification (PS) 15, and the results of those calculations and analyses.

10.1.8.1.3 For each required RATA of an HCl or HF CEMS, record the beginning and ending date and time of each test run, the reference method(s) used, and the reference method and HCl or HF CEMS run values. Keep records of stratification tests performed (if any), all of the raw field data, relevant process operating data, and all of the calculations used to determine the relative accuracy.

10.1.8.1.4 For each required beam intensity test of an HCl IP–CEMS under PS 18 of appendix B to part 60 of this chapter, record the test date and time, the known attenuation value (%) used for the test, the concentration of the high-level reference gas used, the full-beam and attenuated beam intensity levels, the measured HCl concentrations at full-beam intensity and attenuated intensity and the percent difference between them, and the results of the test. For each required daily beam intensity check of an IP–CEMS under Procedure 6 of appendix F to part 60 of this chapter, record the beam intensity measured including the units of measure and the results of the check.

10.1.8.1.5 For each required measurement error test of an HCl monitor, record the date and time of each gas injection, the reference gas concentration (low, mid, or high) and the monitor response for each of the three injections at each of the three levels. Also record the average monitor response and the measurement error (ME) at each gas level and the related calculations. For measurement error tests conducted on IP–CEMS, also record the measured concentrations of the native HCl before and after introduction of each reference gas, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the calculated equivalent concentration of reference gas.

10.1.8.1.6 For each required level of detection (LOD) test of an HCl monitor performed in a controlled environment, record the test date, the concentrations of the reference gas and interference gases, the results of the seven (or more) consecutive measurements of HCl, the standard deviation, and the LOD value. For each required LOD test performed in the field, record the test date, the three measurements of the native source HCl concentration, the results of the three independent standard addition (SA) measurements known as standard addition response (SAR), the effective spike addition gas concentration (for IP–CEMS, the equivalent concentration of the reference gas), the resulting standard addition detection level (SADL) value and all related calculations. For extractive CEMS performing the SA using dynamic spiking, you must record the spiked gas dilution factor.

10.1.8.1.7 For each required measurement error/level of detection response time test of an HCl monitor, record the test date, the native HCl concentration of the flue gas, the reference gas value, the stable reference gas readings, the upscale/downscale start and end times, and the results of the upscale and downscale stages of the test.

10.1.8.1.8 For each required temperature or pressure measurement verification or audit of an IP–CEMS, keep records of the test date, the temperatures or pressures (as applicable) measured by the calibrated temperature or pressure reference device and the IP–CEMS, and the results of the test.

10.1.8.1.9 For each required interference test of an HCl monitor, record (or obtain from the analyzer manufacturer records of): The date of the test; the gas volume/rate, temperature, and pressure used to conduct the test; the HCl concentration of the reference gas used; the concentrations of the interference test gases; the baseline HCl and HCl responses for each interferent combination spiked; and the total percent interference as a function of span or HCl concentration.

10.1.8.1.10 For each quarterly relative accuracy audit (RAA) of an HCl monitor, record the beginning and ending date and time of each test run, the reference method used, the HCl concentrations measured by the reference method and CEMS for each test run, the average concentrations measured by the reference method and the CEMS, and the calculated relative accuracy (RA). Keep records of the raw field data, relevant process operating data, and the calculations used to determine the RA.

10.1.8.1.11 For each quarterly cylinder gas audit (CGA) of an HCl monitor, record the date and time of each injection, and the reference gas concentration (zero, mid, or high) and the monitor response for each injection. Also record the average monitor response and the calculated measurement error (ME) at each gas level. For IP–CEMS, you must also record the measured concentrations of the native HCl before and after introduction of each reference gas, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the calculated equivalent concentration of reference gas.

10.1.8.1.12 For each quarterly dynamic spiking audit (DSA) of an HCl monitor, record the date and time of the zero gas injection and each spike injection, the results of the zero gas injection, the gas concentrations (mid and high) and the dilution factors and the monitor response for each of the six upscale injections as well as the corresponding native HCl concentrations measured before and after each injection. Also record the average dynamic spiking error for each of the upscale gases, the calculated average DSA Accuracy at each upscale gas concentration, and all calculations leading to the DSA Accuracy.

* * * * *

11. Reporting Requirements

* * * * *

11.3.1 For an EGU that begins reporting hourly HCl and/or HF concentrations with a previously-certified CEMS, submit the monitoring plan information in section 10.1.1.2 of this appendix prior to or concurrent with the first required quarterly emissions report. For a new EGU, or for an EGU switching to continuous monitoring of HCl and/or HF emissions after having implemented another allowable compliance option under this subpart, submit the information in section 10.1.1.2 of this appendix at least 21 days prior to the start

of initial certification testing of the CEMS. Also submit the monitoring plan information in 40 CFR 75.53(g) pertaining to any required flow rate, diluent gas, and moisture monitoring systems within the applicable time frame specified in this section, if the required records are not already in place.

* * * * *

11.4 *Certification, Recertification, and Quality-Assurance Test Reporting Requirements.* Except for daily QA tests (*i.e.,* calibrations and flow monitor interference checks), which are included in each electronic quarterly emissions report, use the ECMPS Client Tool to submit the results of all required certification, recertification, quality-assurance, and diagnostic tests of the monitoring systems required under this appendix electronically. Submit the test results either prior to or concurrent with the relevant quarterly electronic emissions report. However, for RATAs of the HCl monitor, if this is not possible, you have up to 60 days after the test completion date to submit the test results; in this case, you may claim provisional status for the emissions data affected by the test, starting from the date and hour in which the test was completed and continuing until the date and hour in which the test results are submitted. If the test is successful, the status of the data in that time period changes from provisional to quality-assured, and no further action is required. However, if the test is unsuccessful, the provisional data must be invalidated and resubmission of the affected emission report(s) is required.

11.4.1 For each daily calibration drift (or calibration error) assessment (including daily calibration transfer standard tests), and for each 7-day calibration drift test of an HCl or HF monitor, report:

11.4.1.1 Facility ID information;

11.4.1.2 The monitoring component ID;

11.4.1.3 The instrument span and span scale;

11.4.1.4 For each gas injection, the date and time, the calibration gas level (zero, mid or other), the reference gas value (ppm), and the monitor response (ppm);

11.4.1.5 A flag to indicate whether dynamic spiking was used for the upscale value (extractive HCl monitors, only);

11.4.1.6 Calibration drift or calibration error (percent of span or reference gas, as applicable);

11.4.1.7 When using the dynamic spiking option, the measured concentration of native HCl before and after each mid-level spike and the spiked gas dilution factor; and

11.4.1.8 When using an IP–CEMS, also report the measured concentration of native HCl before and after each upscale measurement, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the equivalent concentration of the reference gas; and

11.4.1.9 Reason for test (for the 7-day CD test, only).

11.4.2 For each quarterly gas audit of an HCl or HF CEMS that is following PS 15 of appendix B to part 60 of this chapter, report:

* * * * *

11.4.3.11 Standard deviation, using either Equation 2–4 in section 12.3 of Performance Specification 2 in appendix B to part 60 of this chapter or Equation 10 in section 12.6.5 of PS 18 of appendix B to part 60 of this chapter;

11.4.3.12 Confidence coefficient, using either Equation 2–5 in section 12.4 of Performance Specification 2 in appendix B to part 60 of this chapter or Equation 11 in section 12.6.6 of PS 18 of appendix B to part 60 of this chapter;

11.4.3.13 t-value; and

11.4.3.14 *Relative Accuracy (RA).* For FTIR monitoring systems following PS 15 of appendix B to part 60 of this chapter, calculate the RA using Equation 2–6 of Performance Specification 2 in appendix B to part 60 of this chapter or, if applicable, according to the alternative procedure for low emitters described in section 3.1.2.2 of this appendix. For HCl CEMS following PS 18 of appendix B to part 60 of this chapter, calculate the RA according to section 12.6 of PS 18. If applicable use a flag to indicate that the alternative RA specification for low emitters has been applied.

11.4.4 For each 3-level measurement error test of an HCl monitor, report:

11.4.4.1 Facility ID information;

11.4.4.2 Monitoring component ID;

11.4.4.3 Instrument span and span scale;

11.4.4.4 For each gas injection, the date and time, the calibration gas level (low, mid, or high), the reference gas value in ppm and the monitor response. When using an IP–CEMS, also report the measured concentration of native HCl before and after each injection, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the equivalent concentration of the reference gas;

11.4.4.5 For extractive CEMS, the mean reference value and mean of measured values at each reference gas level (ppm). For IP–CEMS, the mean of the measured concentration minus the average measured native concentration minus the equivalent reference gas concentration (ppm), at each reference gas level—see Equation 6A in PS 18 of appendix B to part 60 of this chapter;

11.4.4.6 Measurement error (ME) at each reference gas level; and

11.4.4.7 Reason for test.

11.4.5 Beam intensity tests of an IP CEMS:

11.4.5.1 For the initial beam intensity test described in Performance Specification 18 in appendix B to part 60 of this chapter, report:

11.4.5.1.1 Facility ID information;

11.4.5.1.2 Date and time of the test;

11.4.5.1.3 Monitoring system ID;

11.4.5.1.4 Reason for test;

11.4.5.1.5 Attenuation value (%);

11.4.5.1.6 High level gas concentration (ppm);

11.4.5.1.7 Full and attenuated beam intensity levels, including units of measure;

11.4.5.1.8 Measured HCl concentrations at full and attenuated beam intensity (ppm); and

11.4.5.1.9 Percentage difference between the HCl concentrations.

11.4.5.2 For the daily beam intensity check described in Procedure 6 of appendix F to part 60 of this chapter, report:

11.4.5.2.1 Facility ID information;

11.4.5.2.2 Date and time of the test;

11.4.5.2.3 Monitoring system ID;

11.4.5.2.4 The attenuated beam intensity level (limit) established in the initial test;

11.4.5.2.5 The beam intensity measured during the daily check; and

11.4.5.2.6 Results of the test (pass or fail).

11.4.6 For each temperature or pressure verification or audit of an HCl IP–CEMS, report:

11.4.6.1 Facility ID information;

11.4.6.2 Date and time of the test;

11.4.6.3 Monitoring system ID;

11.4.6.4 Type of verification (T or P);

11.4.6.5 Stack sensor measured value;

11.4.6.6 Reference device measured value;

11.4.6.7 Results of the test (pass or fail); and

11.4.6.8 Reason for test.

11.4.7 For each interference test of an HCl monitoring system, report:

11.4.7.1 Facility ID information;

11.4.7.2 Date of test;

11.4.7.3 Monitoring system ID;

11.4.7.4 Results of the test (pass or fail);

11.4.7.5 Reason for test; and

11.4.7.6 A flag to indicate whether the test was performed: on this particular monitoring system; on one of multiple systems of the same type; or by the manufacturer on a system with components of the same make and model(s) as this system.

11.4.8 For each level of detection (LOD) test of an HCl monitor, report:

11.4.8.1 Facility ID information;

11.4.8.2 Date of test;

11.4.8.3 Reason for test;

11.4.8.4 Monitoring system ID;

11.4.8.5 A code to indicate whether the test was done in a controlled environment or in the field;

11.4.8.6 HCl reference gas concentration;

11.4.8.7 HCl responses with interference gas (7 repetitions);

11.4.8.8 Standard deviation of HCl responses;

11.4.8.9 Effective spike addition gas concentrations;

11.4.8.10 HCl concentration measured without spike;

11.4.8.11 HCl concentration measured with spike;

11.4.8.12 Dilution factor for spike;

11.4.8.13 The controlled environment LOD value (ppm or ppm-meters);

11.4.8.14 The field determined standard addition detection level (SADL in ppm or ppm-meters); and

11.4.8.15 Result of LDO/SADL test (pass/fail).

11.4.9 For each ME or LOD response time test of an HCl monitor, report:

11.4.9.1 Facility ID information;

11.4.9.2 Date of test;

11.4.9.3 Monitoring component ID;

11.4.9.4 The higher of the upscale or downscale tests, in minutes; and

11.4.9.5 Reason for test.

11.4.10 For each quarterly relative accuracy audit of an HCl monitor, report:

11.4.10.1 Facility ID information;
11.4.10.2 Monitoring system ID;
11.4.10.3 Begin and end time of each test run;
11.4.10.4 The reference method used;
11.4.10.5 The reference method (RM) and CEMS values for each test run, including the units of measure;
11.4.10.6 The mean RM and CEMS values for the three test runs;
11.4.10.7 The calculated relative accuracy (RA), percent; and
11.4.10.8 Reason for test.
11.4.11 For each quarterly cylinder gas audit of an HCl monitor, report:
11.4.11.1 Facility ID information;
11.4.11.2 Monitoring component ID;
11.4.11.3 Instrument span and span scale;
11.4.11.4 For each gas injection, the date and time, the reference gas level (zero, mid, or high), the reference gas value in ppm, and the monitor response. When using an IP–CEMS, also report the measured concentration of native HCl before and after each injection, the path lengths of the calibration cell and the stack optical path, the stack and calibration cell temperatures, the stack and calibration cell pressures, the instrument line strength factor, and the equivalent concentration of the reference gas;
11.4.11.5 For extractive CEMS, the mean reference gas value and mean monitor response at each reference gas level (ppm). For IP–CEMS, the mean of the measured concentration minus the average measured native concentration minus the equivalent reference gas concentration (ppm), at each reference gas level—see Equation 6A in PS 18 of appendix B to part 60 of this chapter;
11.4.11.6 Measurement error (ME) at each reference gas level; and
11.4.11.7 Reason for test.
11.4.12 For each quarterly dynamic spiking audit of an HCl monitor, report:
11.4.12.1 Facility ID information;
11.4.12.2 Monitoring component ID;
11.4.12.3 Instrument span and span scale;
11.4.12.4 For the zero gas injection, the date and time, and the monitor response (*Note:* The zero gas injection from a calibration drift check performed on the same day as the upscale spikes may be used for this purpose.);
11.4.12.5 Zero spike error;
11.4.12.6 For the upscale gas spiking, the date and time of each spike, the reference gas level (mid- or high-), the reference gas value (ppm), the dilution factor, the native HCl concentrations before and after each spike, and the monitor response for each gas spike;
11.4.12.7 Upscale spike error;
11.4.12.8 Dynamic spike accuracy (DSA) at the zero level and at each upscale gas level; and
11.4.12.9 Reason for test.
11.4.13 *Reporting Requirements for Diluent Gas, Flow Rate, and Moisture Monitoring Systems.* For the certification, recertification, diagnostic, and QA tests of stack gas flow rate, moisture, and diluent gas monitoring systems that are certified and quality-assured according to part 75 of this chapter, report the information in section 10.1.8.2 of this appendix.
* * * * *
11.5.1 The owner or operator of any affected unit shall use the ECMPS Client Tool to submit electronic quarterly reports to the Administrator in an XML format specified by the Administrator, for each affected unit (or group of units monitored at a common stack). If the certified HCl or HF CEMS is used for the initial compliance demonstration, HCl or HF emissions reporting shall begin with the first operating hour of the 30 boiler operating day compliance demonstration period. Otherwise, HCl or HF emissions reporting shall begin with the first operating hour after successfully completing all required certification tests of the CEMS.
* * * * *

■ 17. Add appendix C to subpart UUUUU to read as follows:

Appendix C to Subpart UUUUU of Part 63—PM Monitoring Provisions

1. General Provisions

1.1 *Applicability.* These monitoring provisions apply to the continuous measurement of filterable particulate matter (PM) emissions from affected EGUs under this subpart. A particulate matter continuous emission monitoring system (PM CEMS) is used together with other continuous monitoring systems and (as applicable) parametric measurement devices to quantify PM emissions in units of the applicable standard (*i.e.,* lb/MMBtu or lb/MWh).
1.2 *Initial Certification and Recertification Procedures.* You, as the owner or operator of an affected EGU that uses a PM CEMS to demonstrate compliance with a filterable PM emissions limit in Table 1 or 2 to this subpart must certify and, if applicable, recertify the CEMS according to Performance Specification 11 (PS–11) in appendix B to part 60 of this chapter.
1.3 *Quality Assurance and Quality Control Requirements.* You must meet the applicable quality assurance requirements of Procedure 2 in appendix F to part 60 of this chapter.
1.4 *Missing Data Procedures.* You must not substitute data for missing data from the PM CEMS. Any process operating hour for which quality-assured PM concentration data are not obtained is counted as an hour of monitoring system downtime.
1.5 *Adjustments for Flow System Bias.* When the PM emission rate is reported on a gross output basis, you must not adjust the data recorded by a stack gas flow rate monitor for bias, which may otherwise be required under 40 CFR 75.24.

2. Monitoring of PM Emissions

2.1 *Monitoring System Installation Requirements.* Flue gases from the affected EGUs under this subpart vent to the atmosphere through a variety of exhaust configurations including single stacks, common stack configurations, and multiple stack configurations. For each of these configurations, § 63.10010(a) specifies the appropriate location(s) at which to install continuous monitoring systems (CMS). These CMS installation provisions apply to the PM CEMS and to the other continuous monitoring systems and parametric monitoring devices that provide data for the PM emissions calculations in section 6 of this appendix.
2.2 *Primary and Backup Monitoring Systems.* In the electronic monitoring plan described in section 7 of this appendix, you must create and designate a primary monitoring system for PM and for each additional parameter (*i.e.,* stack gas flow rate, CO_2 or O_2 concentration, stack gas moisture content, as applicable). The primary system must be used to report hourly PM concentration values when the system is able to provide quality-assured data, *i.e.,* when the system is ''in control.'' However, to increase data availability in the event of a primary monitoring system outage, you may install, operate, maintain, and calibrate a redundant backup monitoring system. A redundant backup system is one that is permanently installed at the unit or stack location and is kept on ''hot standby'' in case the primary monitoring system is unable to provide quality-assured data. You must represent each redundant backup system as a unique monitoring system in the electronic monitoring plan. You must certify each redundant backup monitoring system according to the applicable provisions in section 4 of this appendix. In addition, each redundant monitoring system must meet the applicable on-going QA requirements in section 5 of this appendix.

3. PM Emissions Measurement Methods

The following definitions, equipment specifications, procedures, and performance criteria are applicable
3.1 *Definitions.* All definitions specified in section 3 of PS–11 in appendix B to part 60 of this chapter and section 3 of Procedure 2 in appendix F to part 60 of this chapter are applicable to the measurement of filterable PM emissions from electric utility steam generating units under this subpart. In addition, the following definitions apply:
3.1.1 *Stack operating hour* means a clock hour during which flue gases flow through a particular stack or duct (either for the entire hour or for part of the hour) while the associated unit(s) are combusting fuel.
3.1.2 *Unit operating hour* means a clock hour during which a unit combusts any fuel, either for part of the hour or for the entire hour.
3.2 *Continuous Monitoring Methods.*
3.2.1 Installation and Measurement Location. You must install the PM CEMS according to § 63.10010 and Section 2.4 of PS–11 in appendix B to part 60 of this chapter.
3.2.2 Units of Measure. For the purposes of this subpart, you shall report hourly PM concentrations in units of measure that correspond to your PM CEMS correlation curve (*e.g.,* mg/acm, mg/acm @160 °C, mg/wscm, mg/dscm).
3.2.3 Other Necessary Data Collection. To convert hourly PM concentrations to the units of the applicable emissions standard (*i.e.,* lb/MMBtu or lb/MWh), you must collect additional data as described in sections 3.2.3.1 and 3.2.3.2 of this appendix. You must install, certify, operate, maintain, and quality-assure any stack gas flow rate, CO_2, O_2, or moisture monitoring systems needed for this purpose according to sections 4 and 5 of this appendix. The calculation methods for the emission limits described in sections

3.2.3.1 and 3.2.3.2 of this appendix are presented in section 6 of this appendix.

3.2.3.1 Heat Input-Based Emission Limits. To demonstrate compliance with a heat input-based PM emission limit in Table 2 to this subpart, you must provide the hourly stack gas CO_2 or O_2 concentration, along with a fuel-specific F_c factor or dry-basis F-factor and (if applicable) the stack gas moisture content, in order to convert measured PM concentrations values to the units of the standard.

3.2.3.2 Gross Output-Based Emission Limits. To demonstrate compliance with a gross output-based PM emission limit in Table 1 or 2 to this subpart, you must provide the hourly gross output in megawatts, along with data from a certified stack gas flow rate monitor and (if applicable) the stack gas moisture content, in order to convert measured PM concentrations values to units of the standard.

4. Certification and Recertification Requirements

4.1 *Certification Requirements.* You must certify your PM CEMS and the other continuous monitoring systems used to determine compliance with the applicable emissions standard before the PM CEMS can be used to provide data under this subpart. Redundant backup monitoring systems (if used) are subject to the same certification requirements as the primary systems.

4.1.1 PM CEMS. You must certify your PM CEMS according to PS–11 in appendix B to part 60 of this chapter. A PM CEMS that has been installed and certified according to PS–11 as a result of another state or Federal regulatory requirement or consent decree prior to [EFFECTIVE DATE OF THE FINAL RULE] shall be considered certified for this subpart if you can demonstrate that your PM CEMS meets the PS–11 acceptance criteria based on the applicable emission standard in this subpart.

4.1.2 Flow Rate, Diluent Gas, and Moisture Monitoring Systems. You must certify the continuous monitoring systems that are needed to convert PM concentrations to units of the standard or (if applicable) to convert the measured PM concentrations from wet basis to dry basis or vice-versa (*i.e.,* stack gas flow rate, diluent gas (CO_2 or O_2) concentration, or moisture monitoring systems), in accordance with the applicable provisions in 40 CFR 75.20 and appendix A to part 75 of this chapter.

4.1.3 Other Parametric Measurement Devices. Any temperature or pressure measurement devices that are used to convert hourly PM concentrations to standard conditions must be installed, calibrated, maintained, and operated according to the manufacturers' instructions.

4.2 *Recertification.*

4.2.1 You must recertify your PM CEMS if it is either: Moved to a different stack or duct; moved to a new location within the same stack or duct; modified or repaired in such a way that the existing correlation is altered or impacted; or replaced.

4.2.2 The flow rate, diluent gas, and moisture monitoring systems that are used to convert PM concentration to units of the emission standard are subject to the recertification provisions in 40 CFR 75.20(b).

4.3 *Development of a New or Revised Correlation Curve.* You must develop a new or revised correlation curve if:

4.3.1 A response correlation audit (RCA) is failed and the new or revised correlation is developed according to section 10.6 in Procedure 2 of appendix F to part 60 of this chapter; or

4.3.2 The events described in paragraph (1) or (2) in section 8.8 of PS–11 in appendix B to part 60 of this chapter occur.

5. Ongoing Quality Assurance (QA) and Data Validation

5.1 *PM CEMS.*

5.1.1 Required QA Tests. Following initial certification, you must conduct periodic QA testing of each primary and (if applicable) redundant backup PM CEMS. The required QA tests and the performance specifications that must be met are found in Procedure 2 of appendix F to part 60 of this chapter (Procedure 2). Except as otherwise provided in section 5.1.2 of this appendix, the QA tests shall be done at the frequency specified in Procedure 2.

5.1.2 RRA and RCA Test Frequencies.

5.1.2.1 The test frequency for RRAs of the PM CEMS shall be annual, *i.e.,* once every four calendar quarters. The RRA must either be performed within the fourth calendar quarter after the calendar quarter in which the previous RRA was completed or in a grace period (see section 5.1.3 of this appendix). When a required annual RRA is done within a grace period, the deadline for the next RRA is four calendar quarters after the quarter in which the RRA was originally due, rather than the calendar quarter in which the grace period test is completed.

5.1.2.2 The test frequency for RCAs of the PM CEMS shall be triennial, *i.e.,* once every twelve calendar quarters. If a required RCA is not completed within twelve calendar quarters after the calendar quarter in which the previous RCA was completed, it must be performed in a grace period immediately following the twelfth calendar quarter (see section 5.1.3 of this appendix). When an RCA is done in a grace period, the deadline for the next RCA shall be twelve calendar quarters after the calendar quarter in which the RCA was originally due, rather than the calendar quarter in which the grace period test is completed.

5.1.2.3 Successive quarterly audits (*i.e.,* ACAs and, if applicable, sample volume audits (SVAs)) shall be conducted at least 60 days apart.

5.1.3 Grace Period. A grace period is available, immediately following the end of the calendar quarter in which an RRA or RCA of the PM CEMS is due. The length of the grace period shall be the lesser of 720 EGU (or stack) operating hours or one calendar quarter.

5.1.4 RCA and RRA Acceptability. The results of your RRA or RCA are considered acceptable provided that the criteria in section 10.4(5) of Procedure 2 in appendix F to part 60 of this chapter are met for an RCA or section 10.4(6) of Procedure 2 in appendix F to part 60 of this chapter are met for an RRA.

5.1.5 Data Validation. Your PM CEMS is considered to be out-of-control, and you may not report data from it as quality-assured, when, for a required certification, recertification, or QA test, the applicable acceptance criterion (either in PS–11 in appendix B to part 60 of this chapter or Procedure 2 in appendix F to part 60 of this chapter) is not met. Further, data from your PM CEMS are considered out-of-control, and may not be used for reporting, when a required QA test is not performed on schedule or within an allotted grace period. When an out-of-control period occurs, you must perform the appropriate follow-up actions. For an out-of-control period triggered by a failed QA test, you must perform and pass the same type of test in order to end the out-of-control period. For a QA test that is not performed on time, data from the PM CEMS remain out-of-control until the required test has been performed and passed. You must count all out-of-control data periods of the PM CEMS as hours of monitoring system downtime.

5.2 *Stack Gas Flow Rate, Diluent Gas, and Moisture Monitoring Systems.* The on-going QA test requirements and data validation criteria for the primary and (if applicable) redundant backup stack gas flow rate, diluent gas, and moisture monitoring systems are specified in appendix B to part 75 of this chapter.

5.3 *QA/QC Program Requirements.* You must develop and implement a quality assurance/quality control (QA/QC) program for the PM CEMS and the other equipment that is used to provide data under this subpart. You may store your QA/QC plan electronically, provided that the information can be made available expeditiously in hard copy to auditors and inspectors.

5.3.1 General Requirements.

5.3.1.1 Preventive Maintenance. You must keep a written record of the procedures needed to maintain the PM CEMS and other equipment that is used to provide data under this subpart in proper operating condition, along with a schedule for those procedures. At a minimum, you must include all procedures specified by the manufacturers of the equipment and, if applicable, additional or alternate procedures developed for the equipment.

5.3.1.2 Recordkeeping Requirements. You must keep a written record describing procedures that will be used to implement the recordkeeping and reporting requirements of this appendix.

5.3.1.3 Maintenance Records. You must keep a record of all testing, maintenance, or repair activities performed on the PM CEMS, and other equipment used to provide data under this subpart in a location and format suitable for inspection. You may use a maintenance log for this purpose. You must maintain the following records for each system or device: The date, time, and description of any testing, adjustment, repair, replacement, or preventive maintenance action performed, and records of any corrective actions taken. Additionally, you must record any adjustment that may affect the ability of a monitoring system or measurement device to make accurate measurements, and you must keep a written explanation of the procedures used to make the adjustment(s).

5.3.2 Specific Requirements for the PM CEMS.

5.3.2.1 Daily, and Quarterly QA Assessments. You must keep a written record of the procedures used for daily assessments of the PM CEMS. You must also keep records of the procedures used to perform quarterly ACA and (if applicable) SVA audits. You must document how the test results are calculated and evaluated.

5.3.2.2 Monitoring System Adjustments. You must document how each component of the PM CEMS will be adjusted to provide correct responses after routine maintenance, repairs, or corrective actions.

5.3.2.3 Correlation Tests, Annual and Triennial Audits. You must keep a written record of procedures used for the correlation test(s), annual RRAs, and triennial RCAs of the PM CEMS. You must document how the test results are calculated and evaluated.

5.3.3 Specific Requirements for Diluent Gas, Stack Gas Flow Rate, and Moisture Monitoring Systems. The QA/QC program requirements for the stack gas flow rate, diluent gas, and moisture monitoring systems described in section 3.2.3 of this appendix are specified in section 1 of appendix B to part 75 of this chapter.

5.3.4 Requirements for Other Monitoring Equipment. For the equipment required to convert readings from the PM CEMS to standard conditions (*e.g.,* devices to measure temperature and pressure), you must keep a written record of the calibrations and/or other procedures used to ensure that the devices provide accurate data.

5.3.5 You may store your QA/QC plan electronically, provided that you can make the information available expeditiously in hard copy to auditors or inspectors.

6. Data Reduction and Calculations

6.1 *Data Reduction and Validation.*

6.1.1 You must reduce the data from PM CEMS to hourly averages, in accordance with 40 CFR 60.13(h)(2).

6.1.2 You must reduce all CEMS data from stack gas flow rate, CO_2, O_2, and moisture monitoring systems to hourly averages according to 40 CFR 75.10(d)(1).

6.1.3 You must reduce all other data from devices used to convert readings from the PM CEMS to standard conditions to hourly averages according to 40 CFR 60.13(h)(2) or 75.10(d)(1). This includes, but is not limited to, data from devices used to measure temperature and pressure, or, for cogeneration units that calculate gross output based on steam characteristics, devices to measure steam flow rate, steam pressure, and steam temperature.

6.1.4 Do not calculate the PM emission rate for any unit or stack operating hour in which valid data are not obtained for PM concentration or for any parameter used in the PM emission rate calculations (*i.e.,* gross output, stack gas flow rate, stack temperature, stack pressure, stack gas moisture content, or diluent gas concentration, as applicable).

6.1.5 For the purposes of this appendix, part 75 substitute data values for stack gas flow rate, CO_2 concentration, O_2 concentration, and moisture content are not considered to be valid data.

6.1.6 Operating hours in which PM concentration is missing or invalid are hours of monitoring system downtime. The use of substitute data for PM concentration is not allowed.

6.1.7 You must exclude all data obtained during a boiler startup or shutdown operating hour (as defined in § 63.10042) from the determination of the 30-boiler operating day rolling average PM emission rates.

6.2 *Calculation of PM Emission Rates.* Unless your PM CEMS is correlated to provide PM concentrations at standard conditions, you must use the calculation methods in sections 6.2.1 through 6.2.3 of this appendix to convert measured PM concentration values to units of the emission limit (lb/MMBtu or lb/MWh, as applicable).

6.2.1 p.m. concentrations must be at standard conditions in order to convert them to units of the emissions limit. If your PM CEMS measures PM concentrations at standard conditions, proceed to section 6.2.2 or 6.2.3 of this appendix (as applicable). However, if your PM CEMS measures PM concentrations in units of mg/acm or mg/acm at a specified temperature (*e.g.,* 160 °C), you must first use one of the following equations to convert the hourly PM concentration values from actual to standard conditions:

$$C_{std} = C_a \left(\frac{460 + T_s}{P_s} \right) \left(\frac{P_{std}}{460 + T_{std}} \right) \qquad \text{(Eq. C-1)}$$

or

$$C_{std} = C_a \left(\frac{460 + T_{CEMS}}{P_{CEMS}} \right) \left(\frac{P_{std}}{460 + T_{std}} \right) \qquad \text{(Eq. C-2)}$$

Where:

C_{std} = PM concentration at standard conditions.

C_a = PM concentration at measurement conditions.

T_s = Stack Temperature (°F).

T_{CEMS} = CEMS Measurement Temperature (°F).

P_{CEMS} = CEMS Measurement Pressure (in. Hg).

P_s = Stack Pressure (in. Hg).

T_{std} = Standard Temperature (68 °F).

P_{std} = Standard Pressure (29.92 in. Hg).

6.2.2 Heat Input-Based PM Emission Rates (Existing EGUs, Only). Calculate the hourly heat input-based PM emission rates (if applicable), in units of lb/MMBtu, according to sections 6.2.2.1 and 6.2.2.2 of this appendix.

6.2.2.1 You must select an appropriate emission rate equation from among Equations 19–1 through 19–9 in test Method 19 in appendix A–7 to part 60 of this chapter to convert the hourly PM concentration values from section 6.2.1 of this appendix to units of lb/MMBtu. Note that the EPA test Method 19 equations require the pollutant concentration to be expressed in units of lb/scf; therefore, you must first multiply the PM concentration by 6.24×10^{-8} to convert it from mg/scm to lb/scf.

6.2.2.2 You must use the appropriate carbon-based or dry-basis F-factor in the emission rate equation that you have selected. You may either use an F-factor from Table 19–2 of EPA test Method 19 in appendix A–7 to part 60 of this chapter or from section 3.3.5 or 3.3.6 of appendix F to part 75 of this chapter.

6.2.2.3 If the hourly average O_2 concentration is above 14.0% O_2 (19.0% for an IGCC) or the hourly average CO_2 concentration is below 5.0% CO_2 (1.0% for an IGCC), you may calculate the PM emission rate using the applicable diluent cap value (as defined in § 63.10042 and specified in § 63.10007(f)(1)), provided that the diluent gas monitor is operating and recording quality-assured data).

6.2.2.4 If your selected EPA test Method 19 equation requires a correction for the stack gas moisture content, you may either use quality-assured hourly data from a certified part 75 moisture monitoring system, a fuel-specific default moisture value from 40 CFR 75.11(b), or a site-specific default moisture value approved by the Administrator under 40 CFR 75.66.

6.2.3 Gross Output-Based PM Emission Rates. For each unit or stack operating hour, if C_{std} is measured on a wet basis, you must use Equation C–3 of this section to calculate the gross output-based PM emission rate (if applicable). Use Equation C–4 of this section if C_{std} is measured on a dry basis:

$$E_{heo} = 6.24\ x\ 10^{-8}\ \left(\frac{C_{std}\ Q_s}{MW}\right) \qquad \text{(Eq. C-3)}$$

Where:

E_{heo} = Hourly gross output-based PM emission rate (lb/MWh).

C_{std} = PM concentration from section 6.2.1 (mg/scm), wet basis.

Q_s = Unadjusted stack gas volumetric flow rate (scfh, wet basis).

MW = Gross output (megawatts).

6.24×10^{-8} = Conversion factor.

or

$$E_{heo} = 6.24\ x\ 10^{-8}\ \left(\frac{C_{std}\ Q_s}{MW}\right)\left(1 - B_{ws}\right) \qquad \text{(Eq. C-4)}$$

Where:

E_{heo} = Hourly gross output-based PM emission rate (lb/MWh).

C_{std} = PM concentration from section 6.2.1 (mg/scm), dry basis.

Q_s = Unadjusted stack gas volumetric flow rate (scfh, wet basis).

MW = Gross output (megawatts).

B_{ws} = Proportion by volume of water vapor in the stack gas.

6.24×10^{-8} = Conversion factor.

6.2.4 You must calculate the 30-boiler operating day rolling average PM emission rates according to § 63.10021(b).

7. Recordkeeping and Reporting

7.1 *Recordkeeping Provisions.* For the PM CEMS and the other necessary continuous monitoring systems (CMS) and parameter measurement devices installed at each affected unit or common stack, you must maintain a file of all measurements, data, reports, and other information required by this appendix in a form suitable for inspection, for 5 years from the date of each record, in accordance with § 63.10033. The file shall contain the applicable information in sections 7.1.1 through 7.1.11 of this appendix.

7.1.1 Monitoring Plan Records. For each EGU or group of EGUs monitored at a common stack, you must prepare and maintain a monitoring plan for the PM CEMS and the other CMS(s) needed to convert PM concentrations to units of the applicable emission standard.

7.1.1.1 Updates. If you make a replacement, modification, or change in a certified CEMS that is used to provide data under this appendix (including a change in the automated data acquisition and handling system) or if you make a change to the flue gas handling system and that replacement, modification, or change affects information reported in the monitoring plan (*e.g.,* a change to a serial number for a component of a monitoring system), you shall update the monitoring plan.

7.1.1.2 Contents of the Monitoring Plan. For the PM CEMS, your monitoring plan shall contain the applicable information in sections 7.1.1.2.1 and 7.1.1.2.2 of this appendix. For required stack gas flow rate, diluent gas, and moisture monitoring systems, your monitoring plan shall include the applicable information required for those systems under 40 CFR 75.53(g) and (h).

7.1.1.2.1 Electronic. Your electronic monitoring plan records must include the following information: Unit or stack ID number(s); unit information (type of unit, maximum rated heat input, fuel type(s), emission controls); monitoring location(s); the monitoring methodologies used; monitoring system information, including (as applicable): Unique system and component ID numbers; the make, model, and serial number of the monitoring equipment; the sample acquisition method; formulas used to calculate emissions; operating range and load information; monitor span and range information; units of measure of your PM concentrations (see section 3.2.2 of this appendix); and appropriate default values. Your electronic monitoring plan shall be evaluated and submitted using the Emissions Collection and Monitoring Plan System (ECMPS) Client Tool provided by the Clean Air Markets Division (CAMD) in EPA's Office of Atmospheric Programs.

7.1.1.2.2 Hard Copy. You must keep records of the following items: Schematics and/or blueprints showing the location of the PM monitoring system(s) and test ports; data flow diagrams; test protocols; and miscellaneous technical justifications. The hard copy portion of the monitoring plan must also explain how the PM concentrations are measured and how they are converted to the units of the applicable emissions limit. The equation(s) used for the conversions must be documented. Electronic storage of the hard copy portion of the monitoring plan is permitted.

7.1.2 Operating Parameter Records. You must record the following information for each operating hour of each EGU and also for each group of EGUs utilizing a monitored common stack, to the extent that these data are needed to convert PM concentration data to the units of the emission standard. For non-operating hours, you must record only the items in sections 7.1.2.1 and 7.1.2.2 of this appendix. If you elect to or are required to comply with a gross output-based PM standard, for any hour in which there is gross output greater than zero, you must record the items in sections 7.1.2.1 through 7.1.2.3 and (if applicable) 7.1.2.5 of this appendix; however, if there is heat input to the unit(s) but no gross output (*e.g.,* at unit startup), you must record the items in sections 7.1.2.1, 7.1.2.2, and, if applicable, section 7.1.2.5 of this appendix. If you elect to comply with a heat input-based PM standard, you must record only the items in sections 7.1.2.1, 7.1.2.2, 7.1.2.4, and, if applicable, section 7.1.2.5 of this appendix.

7.1.2.1 The date and hour;

7.1.2.2 The unit or stack operating time (rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at your option);

7.1.2.3 The hourly gross output (rounded to nearest MWe);

7.1.2.4 If applicable, the F_c factor or dry-basis F-factor used to calculate the heat input-based PM emission rate; and

7.1.2.5 If applicable, a flag to indicate that the hour is an exempt startup or shutdown hour.

7.1.3 PM Concentration Records. For each affected unit or common stack using a PM CEMS, you must record the following information for each unit or stack operating hour:

7.1.3.1 The date and hour;

7.1.3.2 Monitoring system and component identification codes for the PM CEMS, as provided in the electronic monitoring plan, if your CEMS provides a quality-assured value of PM concentration for the hour;

7.1.3.3 The hourly PM concentration, in units of measure that correspond to your PM CEMS correlation curve, for each operating hour in which a quality-assured value is obtained. Record all PM concentrations with one leading non-zero digit and one decimal place, expressed in scientific notation. Use the following rounding convention: if the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged.

7.1.3.4 A special code, indicating whether or not a quality-assured PM concentration is obtained for the hour; and

7.1.3.5 Monitor data availability for PM concentration, as a percentage of unit or stack operating hours calculated in the manner established for SO_2, CO_2, O_2 or moisture monitoring systems according to 40 CFR 75.32.

7.1.4 Stack Gas Volumetric Flow Rate Records.

7.1.4.1 When a gross output-based PM emissions limit must be met, in units of lb/MWh, you must obtain hourly measurements of stack gas volumetric flow rate during EGU operation, in order to convert PM concentrations to units of the standard.

7.1.4.2 When hourly measurements of stack gas flow rate are needed, you must keep hourly records of the flow rates and related information, as specified in 40 CFR 75.57(c)(2).

7.1.5 Records of Diluent Gas (CO_2 or O_2) Concentration.

7.1.5.1 When a heat input-based PM emission limit must be met, in units of lb/MMBtu, you must obtain hourly measurements of CO_2 or O_2 concentration during EGU operation, in order to convert PM concentrations to units of the standard.

7.1.5.2 When hourly measurements of diluent gas concentration are needed, you must keep hourly CO_2 or O_2 concentration records, as specified in 40 CFR 75.57(g).

7.1.6 Records of Stack Gas Moisture Content.

7.1.6.1 When corrections for stack gas moisture content are needed to demonstrate compliance with the applicable PM emissions limit:

7.1.6.1.1 If you use a continuous moisture monitoring system, you must keep hourly records of the stack gas moisture content and related information, as specified in 40 CFR 75.57(c)(3).

7.1.6.1.2 If you use a fuel-specific default moisture value, you must represent it in the electronic monitoring plan required under section 7.1.1.2.1 of this appendix.

7.1.7 PM Emission Rate Records. For applicable PM emission limits in units of lb/MMBtu or lb/MWh, you must record the following information for each affected EGU or common stack:

7.1.7.1 The date and hour;

7.1.7.2 The hourly PM emissions rate (lb/MMBtu or lb/MWh, as applicable), calculated according to section 6.2.2 or 6.2.3 of this appendix, rounded to the same precision as the standard (*i.e.,* with one leading non-zero digit and one decimal place, expressed in scientific notation), expressed in scientific notation. Use the following rounding convention: if the digit immediately following the first decimal place is 5 or greater, round the first decimal place upward (increase it by one); if the digit immediately following the first decimal place is 4 or less, leave the first decimal place unchanged. You must calculate the PM emission rate only when valid values of PM concentration and all other required parameters required to convert PM concentration to the units of the standard are obtained for the hour;

7.1.7.3 An identification code for the formula used to derive the hourly PM emission rate from measurements of the PM concentration and other necessary parameters (*i.e.,* Equation C–3 or C–4 in section 6.2.3 of this appendix or the applicable EPA test Method 19 equation);

7.1.7.4 If applicable, indicate that the diluent cap has been used to calculate the PM emission rate; and

7.1.7.5 If applicable, indicate that the default electrical load (as defined in § 63.10042) has been used to calculate the hourly PM emission rate.

7.1.7.6 Indicate that the PM emission rate was not calculated for the hour, if valid data are not obtained for PM concentration and/or any of the other parameters in the PM emission rate equation. For the purposes of this appendix, substitute data values for stack gas flow rate, CO_2 concentration, O_2 concentration, and moisture content reported under part 75 of this chapter are not considered to be valid data. However, when the gross output (as defined in § 63.10042) is reported for an operating hour with zero output, the default electrical load value is treated as quality-assured data.

7.1.8 Other Parametric Data. If your PM CEMS measures PM concentrations at actual conditions, you must keep records of the temperatures and pressures used in Equation C–1 or C–2 in section 6.2.1 of this appendix to convert the measured hourly PM concentrations to standard conditions.

7.1.9 Certification, Recertification, and Quality Assurance Test Records. For any PM CEMS used to provide data under this subpart, you must record the following certification, recertification, and quality-assurance information:

7.1.9.1 The test dates and times, reference values, monitor responses, monitor full scale value, and calculated results for the required 7-day drift tests and for the required daily zero and upscale calibration drift tests;

7.1.9.2 The test dates and times and results (pass or fail) of all daily system optics checks and daily sample volume checks of the PM CEMS (as applicable);

7.1.9.3 The test dates and times, reference values, monitor responses, and calculated results for all required quarterly ACAs;

7.1.9.4 The test dates and times, reference values, monitor responses, and calculated results for all required quarterly SVAs of extractive PM CEMS;

7.1.9.5 The test dates and times, reference method readings and corresponding PM CEMS responses (including the units of measure), and the calculated results for all PM CEMS correlation tests, RRAs and RCAs. For the correlation tests, you must indicate which model is used (*i.e.,* linear, logarithmic, exponential, polynomial, or power) and record the correlation equation. For the RRAs and RCAs, the reference method readings and PM CEMS responses must be reported in the same units of measure as the PM CEMS correlation;

7.1.9.6 The cycle time and sample delay time for PM CEMS that operate in batch sampling mode; and

7.1.9.7 Supporting information for all required PM CEMS correlation tests, RRAs, and RCAs, including records of all raw reference method and monitoring system data, the results of sample analyses to substantiate the reported test results, as well as records of sampling equipment calibrations, reference monitor calibrations, and analytical equipment calibrations.

7.1.10 For stack gas flow rate, diluent gas, and moisture monitoring systems, you must keep records of all certification, recertification, diagnostic, and on-going quality-assurance tests of these systems, as specified in 40 CFR 75.59(a).

7.1.11 For each temperature measurement device (*e.g.,* RTD or thermocouple) and pressure measurement device used to convert measured PM concentrations to standard conditions according to Equation C–1 or C–2 in section 6.2.1 of this appendix, you must keep records of all calibrations and other checks performed to ensure that accurate data are obtained.

7.2 *Reporting Requirements.*

7.2.1 General Reporting Provisions. You must comply with the following requirements for reporting PM emissions from each affected EGU (or group of EGUs monitored at a common stack) under this subpart:

7.2.1.1 Notifications, in accordance with section 7.2.2 of this appendix;

7.2.1.2 Monitoring plan reporting, in accordance with section 7.2.3 of this appendix;

7.2.1.3 Certification, recertification, and QA test submittals, in accordance with section 7.2.4 of this appendix; and

7.2.1.4 Electronic quarterly emissions report submittals, in accordance with section 7.2.5 of this appendix.

7.2.2 Notifications. You must provide notifications for each affected unit (or group of units monitored at a common stack) under this subpart in accordance with § 63.10030.

7.2.3 Monitoring Plan Reporting. For each affected unit (or group of units monitored at a common stack) under this subpart using PM CEMS to measure PM emissions, you must make electronic and hard copy monitoring plan submittals as follows:

7.2.3.1 For an EGU that begins reporting hourly PM concentrations on January 1, 2024 with a previously-certified PM CEMS, submit the monitoring plan information in section 7.1.1.2 of this appendix prior to or concurrent with the first required quarterly emissions report. For a new EGU, or for an EGU switching to continuous monitoring of PM emissions after having implemented another allowable compliance option under this subpart, submit the information in section 7.1.1.2 of this appendix at least 21 days prior to the start of initial certification testing of the PM CEMS. Also submit the monitoring plan information in 40 CFR 75.53(g) pertaining to any required flow rate, diluent gas, and moisture monitoring systems within the applicable time frame specified in this section, if the required records are not already in place.

7.2.3.2 Whenever an update of the monitoring plan is required, as provided in section 7.1.1.1 of this appendix, you must submit the updated information either prior to or concurrent with the relevant quarterly electronic emissions report.

7.2.3.3 All electronic monitoring plan submittals and updates shall be made to the Administrator using the ECMPS Client Tool. Hard copy portions of the monitoring plan shall be submitted to the appropriate delegated authority.

7.2.4 Certification, Recertification, and Quality-Assurance Test Reporting. Except for daily QA tests of the required monitoring systems (*i.e.,* calibration error or drift tests, sample volume checks, system optics checks, and flow monitor interference checks), you must submit the results of all required certification, recertification, and quality-assurance tests described in sections 7.1.9.1

through 7.1.9.6 and 7.1.10 of this appendix electronically (except for test results previously submitted, *e.g.,* under the Acid Rain Program), using the ECMPS Client Tool. Submit the results of the QA test (*i.e.,* RCA or RRA) or, if applicable, a new PM CEMS correlation test, either prior to or concurrent with the relevant quarterly electronic emissions report. If this is not possible, you have up to 60 days after the test completion date to submit the test results; in this case, you may claim provisional status for the emissions data affected by the QA test or correlation, starting from the date and hour in which the test was completed and continuing until the date and hour in which the test results are submitted. For an RRA or RCA, if the applicable audit specifications are met, the status of the emissions data in the relevant time period changes from provisional to quality-assured, and no further action is required. For a successful correlation test, apply the correlation equation retrospectively to the raw data to change the provisional status of the data to quality-assured, and resubmit the affected emissions report(s). However, if the applicable performance specifications are not met, the provisional data must be invalidated, and resubmission of the affected quarterly emission report(s) is required. For a failed RRA or RCA, you must take corrective actions and proceed according to the applicable requirements found in sections 10.5 through 10.7 of Procedure 2 in appendix F to part 60 of this chapter until a successful QA test report is submitted. If a correlation test is unsuccessful, you may not report quality-assured data from the PM CEMS until the results of a subsequent correlation test show that the specifications in section 13.0 of PS–11 in appendix B to part 60 of this chapter are met.

7.2.5 Quarterly Reports.

7.2.5.1 For each affected EGU (or group of EGUs monitored at a common stack), the owner or operator must use the ECMPS Client Tool to submit electronic quarterly emissions reports to the Administrator, in an XML format specified by the Administrator, starting with a report for the later of:

7.2.5.1.1 The first calendar quarter of 2024; or

7.2.5.1.2 The calendar quarter in which the initial PM CEMS correlation test is completed.

7.2.5.2 You must submit the electronic reports within 30 days following the end of each calendar quarter, except for EGUs that have been placed in long-term cold storage (as defined in 40 CFR 72.2).

7.2.5.3 Each of your electronic quarterly reports shall include the following information:

7.2.5.3.1 The date of report generation;

7.2.5.3.2 Facility identification information;

7.2.5.3.3 The information in sections 7.1.2 through 7.1.7 of this appendix that is applicable to your PM emission measurement methodology; and

7.2.5.3.4 The results of all daily QA assessments, *i.e.,* calibration drift checks and (if applicable) sample volume checks of the PM CEMS, calibration error tests of the other continuous monitoring systems that are used to convert PM concentration to units of the standard, and (if applicable) flow monitor interference checks.

7.2.5.4 Compliance Certification. Based on a reasonable inquiry of those persons with primary responsibility for ensuring that all PM emissions from the affected unit(s) under this subpart have been correctly and fully monitored, the owner or operator must submit a compliance certification in support of each electronic quarterly emissions monitoring report. The compliance certification shall include a statement by a responsible official with that official's name, title, and signature, certifying that, to the best of his or her knowledge, the report is true, accurate, and complete.

■ 18. Add appendix D to subpart UUUUU to read as follows:

Appendix D to Subpart UUUUU of Part 63—PM CPMS Monitoring Provisions

1. General Provisions

1.1 *Applicability.* These monitoring provisions apply to the continuous monitoring of the output from a particulate matter continuous parametric monitoring system (PM CPMS), for the purpose of assessing continuous compliance with an applicable emissions limit in Table 1 or 2 to this subpart.

1.2 *Summary of the Method.* The output from an instrument capable of continuously measuring PM concentration is continuously recorded, either in milliamps, PM concentration, or other units of measure. An operating limit for the PM CPMS is established initially, based on data recorded by the monitoring system during a performance stack test. The performance test is repeated annually and the operating limit is reassessed. In-between successive performance tests, the output from the PM CPMS serves as an indicator of continuous compliance with the applicable emissions limit.

2. Continuous Monitoring of the PM CPMS Output

2.1 *System Design and Performance Criteria.* The PM CPMS must meet the design and performance criteria specified in §§ 63.10010(h)(1)(i) through (iii) and 63.10023(b)(2)(iii) and (iv). In addition, an automated data acquisition and handling system (DAHS) is required to record the output from the PM CPMS and to generate the quarterly electronic data reports required under section 3.2.4 of this appendix.

2.2 *Installation Requirements.* Install the PM CPMS at an appropriate location in the stack or duct, in accordance with § 63.10010(a).

2.3 *Determination of Operating Limits.*

2.3.1 In accordance with §§ 63.10007(a)(3), 63.10011(b), and 63.10023(a) and Table 6 to this subpart, you must determine an initial site-specific operating limit for your PM CPMS, using data recorded by the monitoring system during a performance stack test that demonstrates compliance with one of the following emissions limits in Table 1 or 2 to this subpart: Filterable PM; total non-Hg HAP metals; total HAP metals including Hg (liquid oil-fired units, only); individual non-Hg HAP metals; or individual HAP metals including Hg (liquid oil-fired units, only).

2.3.2 In accordance with § 63.10005(d)(2)(i), you must perform the initial stack test no later than the applicable date in § 63.9984(f), and according to §§ 63.10005(d)(2)(iii) and 63.10006(a), the performance test must be repeated annually to document compliance with the emissions limit and to reassess the operating limit.

2.3.3 Calculate the operating limits according to § 63.10023(b)(1) for existing units, and § 63.10023(b)(2) for new units.

2.4 *Data Reduction and Compliance Assessment.*

2.4.1 Reduce the output from the PM CPMS to hourly averages, in accordance with § 63.8(g)(2) and (5).

2.4.2 To determine continuous compliance with the operating limit, you must calculate 30-boiler operating day rolling average values of the output from the PM CPMS, in accordance with §§ 63.10010(h)(3) through (6) and 63.10021(c) and Table 7 to this subpart.

2.4.3 In accordance with §§ 63.10005(d)(2)(ii) and 63.10022(a)(2) and Table 4 to this subpart, the 30-boiler operating day rolling average PM CPMS output must be maintained at or below the operating limit. However, if exceedances of the operating limit should occur, you must follow the applicable procedures in § 63.10021(c)(1) and (2).

3. Recordkeeping and Reporting

3.1 *Recordkeeping Provisions.* You must keep the applicable records required under § 63.10032(b) and (c) for your PM CPMS. In addition, you must maintain a file of all measurements, data, reports, and other information required by this appendix in a form suitable for inspection, for 5 years from the date of each record, in accordance with § 63.10033.

3.1.1 Monitoring Plan Records.

3.1.1.1 You must develop and maintain a site-specific monitoring plan for your PM CPMS, in accordance with § 63.10000(d).

3.1.1.2 In addition to the site-specific monitoring plan required under § 63.10000(d), you must use the ECMPS Client Tool to prepare and maintain an electronic monitoring plan for your PM CPMS.

3.1.1.2.1 Contents of the Electronic Monitoring Plan. The electronic monitoring plan records must include the unit or stack ID number(s), monitoring location(s), the monitoring methodology used (*i.e.,* PM CPMS), the current operating limit of the PM CPMS (including the units of measure), unique system and component ID numbers, the make, model, and serial number of the PM CPMS, the analytical principle of the monitoring system, and monitor span and range information.

3.1.1.2.2 Electronic Monitoring Plan Updates. If you replace or make a change to a PM CPMS that is used to provide data under this subpart (including a change in the automated data acquisition and handling system) and the replacement or change affects information reported in the electronic monitoring plan (*e.g.,* changes to the make, model and serial number when a PM CPMS

is replaced), you must update the monitoring plan.

3.1.2 Operating Parameter Records. You must record the following information for each operating hour of each affected unit and for each group of units utilizing a common stack. For non-operating hours, record only the items in sections 3.1.2.1 and 3.1.2.2 of this appendix.

3.1.2.1 The date and hour;

3.1.2.2 The unit or stack operating time (rounded up to the nearest fraction of an hour (in equal increments that can range from one hundredth to one quarter of an hour, at the option of the owner or operator); and

3.1.2.3 If applicable, a flag to indicate that the hour is an exempt startup or shutdown hour.

3.1.3 PM CPMS Output Records. For each affected unit or common stack using a PM CPMS, you must record the following information for each unit or stack operating hour:

3.1.3.1 The date and hour;

3.1.3.2 Monitoring system and component identification codes for the PM CPMS, as provided in the electronic monitoring plan, for each operating hour in which the monitoring system is not out-of-control and a valid value of the output parameter is obtained;

3.1.3.3 The hourly average output from the PM CPMS, for each operating hour in which the monitoring system is not out-of-control and a valid value of the output parameter is obtained, either in milliamps, PM concentration, or other units of measure, as applicable;

3.1.3.4 A special code for each operating hour in which the PM CPMS is out-of-control and a valid value of the output parameter is not obtained; and

3.1.3.5 Percent monitor data availability (PMA) for the PM CPMS, calculated in the manner established for SO_2, CO_2, O_2 or moisture monitoring systems according to § 75.32 of this chapter.

3.1.4 Records of PM CPMS Audits and Out-of-Control Periods. In accordance with § 63.10010(h)(7), you must record, and make available upon request, the results of PM CPMS performance audits, as well as the dates of PM CPMS out-of-control periods and the corrective actions taken to return the system to normal operation.

3.2 *Reporting Requirements.*

3.2.1 General Reporting Provisions. You must comply with the following requirements for reporting PM CPMS data from each affected EGU (or group of EGUs monitored at a common stack) under this subpart:

3.2.1.1 Notifications, in accordance with section 3.2.2 of this appendix;

3.2.1.2 Monitoring plan reporting, in accordance with section 3.2.3 of this appendix;

3.2.1.3 Report submittals, in accordance with sections 3.2.4 and 3.2.5 of this appendix.

3.2.2 Notifications. You must provide notifications for the affected unit (or group of units monitored at a common stack) in accordance with § 63.10030.

3.2.3 Monitoring Plan Reporting. For each affected unit (or group of units monitored at a common stack) under this subpart using a PM CPMS you must make monitoring plan submittals as follows:

3.2.3.1 For units using the PM CPMS compliance option prior to January 1, 2024, submit the electronic monitoring plan information in section 3.1.1.2.1 of this appendix prior to or concurrent with the first required electronic quarterly report. For units switching to the PM CPMS methodology on or after January 1, 2024, submit the electronic monitoring plan no later than 21 days prior to the date on which the PM test is performed to establish the initial operating limit.

3.2.3.2 Whenever an update of the electronic monitoring plan is required, as provided in section 3.1.1.2.2 of this appendix, the updated information must be submitted either prior to or concurrent with the relevant quarterly electronic emissions report.

3.2.3.3 All electronic monitoring plan submittals and updates shall be made to the Administrator using the ECMPS Client Tool.

3.2.3.4 In accordance with § 63.10000(d), you must submit the site-specific monitoring plan described in section 3.1.1.1 of this appendix to the Administrator, if requested.

3.2.4 Electronic Quarterly Reports.

3.2.4.1 For each affected EGU (or group of EGUs monitored at a common stack) that is subject to the provisions of this appendix, reporting of hourly responses from the PM CPMS will begin either with the first operating hour in the third quarter of 2023 or the first operating hour after completion of the initial stack test that establishes the operating limit, whichever is later. The owner or operator must then use the ECMPS Client Tool to submit electronic quarterly reports to the Administrator, in an XML format specified by the Administrator, starting with a report for the later of:

3.2.4.1.1 The first calendar quarter of 2024; or

3.2.4.1.2 The calendar quarter in which the initial operating limit for the PM CPMS is established.

3.2.4.2 The electronic quarterly reports must be submitted within 30 days following the end of each calendar quarter, except for units that have been placed in long-term cold storage (as defined in § 72.2 of this chapter).

3.2.4.3 Each electronic quarterly report shall include the following information:

3.2.4.3.1 The date of report generation;

3.2.4.3.2 Facility identification information; and

3.2.4.3.3 The information in sections 3.1.2 and 3.1.3 of this appendix.

3.2.4.4 Compliance Certification. Based on a reasonable inquiry of those persons with primary responsibility for ensuring that the output from the PM CPMS has been correctly and fully monitored, the owner or operator shall submit a compliance certification in support of each electronic quarterly report. The compliance certification shall include a statement by a responsible official with that official's name, title, and signature, certifying that, to the best of his or her knowledge, the report is true, accurate, and complete.

3.2.5 Performance Stack Test Results. You must use the ECMPS Client Tool to report the results of all performance stack tests conducted to document compliance with the applicable emissions limit in Table 1 or 2 to this subpart, as follows:

3.2.5.1 Report a summary of each test electronically, in XML format, in the relevant quarterly compliance report under § 63.10031(g); and

3.2.5.2 Provide a complete stack test report as a PDF file, in accordance with § 63.10031(f) or (h), as applicable.

■ 19. Add appendix E to subpart UUUUU to read as follows:

Appendix E to Subpart UUUUU of Part 63—Data Elements

1.0 You must record the electronic data elements in this appendix that apply to your compliance strategy under this subpart. The applicable data elements in sections 2 through 13 of this appendix must be reported in the quarterly compliance reports required under § 63.10031(g), in an XML format prescribed by the Administrator, starting with a report that covers the first quarter of 2024. For stack tests used to demonstrate compliance, RATAs, PM CEMS correlations, RRAs and RCAs that are completed on and after January 1, 2024, the applicable data elements in sections 17 through 30 of this appendix must be reported in an XML format prescribed by the Administrator, and the information in section 31 of this appendix must be reported in as one or more PDF files.

2.0 *MATS Compliance Report Root Data Elements.* You must record the following data elements and include them in each quarterly compliance report:

2.1 ORIS Code;

2.2 Facility Name;

2.3 Facility Registry Identifier;

2.4 Title 40 Part;

2.5 Applicable Subpart;

2.6 Calendar Year;

2.7 Calendar Quarter; and

2.8 Submission Comment (Optional).

3.0 *Performance Stack Test Summary.* If you elect to demonstrate compliance using periodic performance stack testing (including 30-boiler operating day Hg LEE tests), record the following data elements for each test:

3.1 Parameter;

3.2 Test Location ID;

3.3 Test Number;

3.4 Test Begin Date, Hour, and Minute;

3.5 Test End Date, Hour, and Minute;

3.6 Timing of Test (either performed on-schedule according to § 63.10006(f), or was late);

3.7 Averaging Plan Indicator;

3.8 Averaging Group ID (if applicable);

3.9 EPA Test Method Code;

3.10 Emission Limit, Including Units of Measure;

3.11 Average Pollutant Emission Rate;

3.12 LEE Indicator;

3.13 LEE Basis (if applicable); and

3.14 Submission Comment (Optional).

4.0 *Operating limit Data (PM CPMS, only):*

4.1 Parameter Type;

4.2 Operating Limit; and

4.3 Units of Measure.

5.0 *Performance Test Run Data.* For each run of the performance stack test, record the following data elements:

5.1 Run Number;

5.2 Run Begin Date, Hour, and Minute;
5.3 Run End Date, Hour, and Minute;
5.4 Pollutant Concentration and units of measure;
5.5 Emission Rate;
5.6 EPA test Method 19 Equation (if applicable);
5.7 Total Sampling Time; and
5.8 Total Sample Volume.

6.0 *Conversion Parameters.* For the parameters that are used to convert the pollutant concentration to units of the emission standard (including, as applicable, CO_2 or O_2 concentration, stack gas flow rate, stack gas moisture content, F-factors, and gross output), record:
6.1 Parameter Type;
6.2 Parameter Source; and
6.3 Parameter Value, including Units of Measure.

7.0 *QA Parameters:* For key parameters that are used to quality-assure the reference method data (including, as applicable, filter temperature, % isokinetic, leak check results, % breakthrough, % spike recovery, and relative deviation), record:
7.1 Parameter Type;
7.2 Parameter Value; and
7.3 Pass/Fail Status.

8.0 *Averaging Group Configuration.* If a particular EGU or common stack is included in an averaging plan, record the following data elements:
8.1 Parameter Being Averaged;
8.2 Averaging Group ID; and
8.3 Unit or Common Stack ID.

9.0 *Compliance Averages.* If you elect to (or are required to) demonstrate compliance using continuous monitoring system(s) on a 30-boiler operating day rolling average basis (or on a 30- or 90-group boiler operating day rolling weighted average emission rate (WAER) basis, if your monitored EGU or common stack is in an averaging plan), you must record the following data elements for each average emission rate (or, for units in an averaging plan, for each weighted average emission rate (WAER)):
9.1 Unit or Common Stack ID;
9.2 Averaging Group ID (if applicable);
9.3 Parameter Being Averaged;
9.4 Date;
9.5 Average Type;
9.6 Units of Measure; and
9.7 Average Value.
9.8 Comment Field.

10.0 *Unit Information.* You must record the following data elements for each EGU:
10.1 Unit ID;
10.2 Date of Last Tune-up; and
10.3 Emergency Bypass Information. If your coal-fired EGU, solid oil-derived fuel-fired EGU, or IGCC is equipped with a main stack and a bypass stack (or bypass duct) configuration, and has qualified to use the LEE compliance option, you must report the following emergency bypass information annually, in the compliance report for the fourth calendar quarter of the year:
10.3.1 The number of emergency bypass hours for the year, as a percentage of the EGU's annual operating hours;
10.3.2 A description of each emergency bypass event during the year, including the cause and corrective actions taken;
10.3.3 An explanation of how clean fuels were burned to the maximum extent possible during each emergency bypass event;
10.3.4 An estimate of the emissions released during each emergency bypass event. You must also show whether LEE status has been retained or lost, based on the emissions estimate and the results of the previous LEE retest; and
10.3.5 If there were no emergency bypass events during the year, a statement to that effect.

11.0 *Fuel Usage Information.* Record the following monthly fuel usage information:
11.1 Calendar Month;
11.2 Each Type of Fuel Used During the Calendar Month in the Quarter;
11.3 Quantity of Each Type of Fuel Combusted in Each Calendar Month in the Quarter, with Units of Measure;
11.3 New Fuel Type Indicator (if applicable); and
11.4 Date of Performance Test Using the New Fuel (if applicable).

12.0 *Malfunction Information (if applicable):* If there was a malfunction of the process equipment or control equipment during the reporting period that caused (or may have caused) an exceedance of an emissions or operating limit, record:
12.1 Event Begin Date and Hour (if known);
12.2 Event End Date and Hour;
12.3 Malfunction Description; and
12.4 Corrective Action.

13.0 *Deviations.* If there were any deviations during the reporting period, record:
13.1 Unit, Common Stack, or Averaging Group ID;
13.2 The nature of the deviation, as either:
13.2.1 Emission limit exceeded;
13.2.2 Operating limit exceeded;
13.2.3 Work practice standard not met;
13.2.4 Testing requirement not met;
13.2.5 Monitoring requirement not met; or
13.2.6 Other requirement not met.
13.3 A description of the deviation, as follows:
13.3.1 For a performance stack test or a 30- (or 90-) boiler operating day rolling average that exceeds an emissions or operating limit, record the parameter (*e.g.,* HCl, Hg, PM), the limit that was exceeded, and either the date of the non-complying performance test or the beginning and ending dates of the non-complying rolling average;
13.3.2 If an unmonitored bypass stack was used during the reporting period, record the total number of hours of bypass stack usage;
13.3.3 For failure to collect required monitoring data during the reporting period, record the monitored parameter, the total source operating time (hours), and the total number of hours of monitor downtime for:
13.3.3.1 Monitoring system malfunctions;
13.3.3.2 Out-of-control periods;
13.3.3.3 Non-monitoring equipment malfunctions;
13.3.3.4 QA/QC activities (*e.g.,* calibrations, performance audits)
13.3.3.5 Routine maintenance
13.3.3.6 Other known causes; and
13.3.3.7 Unknown causes.
13.3.4 If a performance stack test was due within the quarter but was not done, record the parameter (*e.g.,* HCl, PM), the test deadline, and a statement that the test was not done as required;
13.3.5 For a late performance stack test conducted during the quarter, record the parameter, the test deadline, and the number of days that elapsed between the test deadline and the test completion date.
13.4 Record any corrective actions taken in response to the deviation.
13.5 If there were no deviations during the quarter, record a statement to that effect.

14.0 *Reference Method Data Elements.* For each of the following tests that is completed on and after January 1, 2024, you must record and report the applicable electronic data elements in sections 17 through 29 of this appendix, pertaining to the reference method(s) used for the test (see section 16 of this appendix).
14.1 Each quarterly, annual, or triennial stack test used to demonstrate compliance (including 30- (or 90-) boiler operating day Hg LEE tests and PM tests used to set operating limits for PM CPMS);
14.2 Each relative accuracy test audit (RATA) of your Hg, HCl, HF, or SO_2 CEMS or each RATA of your Hg sorbent trap monitoring system; and
14.3 Each correlation test, relative response audit (RRA) and each response correlation audit (RCA) of your PM CEMS.

15.0 You must report the applicable data elements for each test described in section 14 of this appendix in an XML format prescribed by the Administrator.
15.1 For each stack test completed during a particular calendar quarter and contained in the quarterly compliance report, you must submit along with the quarterly compliance report, the data elements in sections 17 and 18 of this appendix (which are common to all tests) and the applicable data elements in sections 19 through 31 of this appendix associated with the reference method(s) used.
15.2 For each RATA, PM CEMS correlation, RRA, or RCA, when you use the ECMPS Client Tool to report the test results as required under appendix A, B, or C to this subpart or, for SO_2 RATAs under part 75 of this chapter, you must submit along with the test results, the data elements in sections 17 and 18 of this appendix and, for each test run, the data elements in sections 19 through 30 of this appendix that are associated with the reference method(s) used.
15.3 For each stack test, RATA, PM CEMS correlation, RRA, and RCA, you must also provide the information described in section 31 of this appendix as a PDF file, either along with the quarterly compliance report (for stack tests) or together with the test results reported under appendix A, B, or C to this subpart or part 75 of this chapter (for RATAs, RRAs, RCAs, or PM CEMS correlations).

16.0 *Applicable Reference Methods.* One or more of the following EPA reference methods is needed for the tests described in sections 14.1 through 14.3 of this appendix: Method 1, Method 2, Method 3A, Method 4, Method 5, Method 5D, Method 6C, Method 26, Method 26A, Method 29, and/or Method

30B in appendices A–1 through A–4 and A–8 of part 60 of this chapter.

16.1 Application of EPA test Methods 1 and 2 in appendices A–1 of part 60 of this chapter. If you use periodic stack testing to comply with an *output-based* emissions limit, you must determine the stack gas flow rate during each performance test run in which EPA test Method 5, 5D, 26, 26A, 29, or 30B in appendices A–3 and A–8 of part 60 of this chapter is used, in order to convert the measured pollutant concentration to units of the standard. For EPA test Methods 5, 5D, 26A and 29, which require isokinetic sampling, the delta-P readings made with the pitot tube and manometer at the Method 1 traverse points, taken together with measurements of stack gas temperature, pressure, diluent gas concentration (from a separate EPA test Method 3A or 3B test) and moisture, provide the necessary data for the EPA test Method 2 flow rate calculations. Note that even if you elect to comply with a *heat input-based* standard, when EPA test Method 5, 5D, 26A, or 29 is used, you must still use EPA test Method 2 to determine the average stack gas velocity (v_s), which is needed for the percent isokinetic calculation. The EPA test Methods 26 and 30B do not require isokinetic sampling; therefore, when either of these methods is used, if the stack gas flow rate is needed to comply with the applicable *output-based* emissions limit, you must make a separate EPA test Method 2 determination during each test run.

16.2 Application of EPA test Method 3A in appendix A–2 of part 60 of this chapter. If you elect to perform periodic stack testing to comply with a *heat input-based* emissions limit, a separate measurement of the diluent gas (CO_2 or O_2) concentration is required for each test run in which EPA test Method 5, 5D, 26, 26A, 29, or 30B in appendices A–3 and A–8 of part 60 of this chapter is used, in order to convert the measured pollutant concentration to units of the standard. The EPA test Method 3A is the preferred CO_2 or O_2 test method, although EPA test Method 3B may be used instead. Diluent gas measurements are also needed for stack gas molecular weight determinations when using EPA test Method 2 in appendix A–1 of part 60 of this chapter.

16.3 Application of EPA test Method 4 in appendix A–3 of part 60 of this chapter. For performance stack tests, depending on which equation is used to convert pollutant concentration to units of the standard, measurement of the stack gas moisture content, using EPA test Method 4, may also be required for each test run. The EPA test Method 4 moisture data are also needed for the EPA test Method 2 in appendix A–1 of part 60 of this chapter calculations (to determine the molecular weight of the gas) and for the RATA of an Hg CEMS that measures on a wet basis, when RM 30B is used. Other applications that require EPA test Method 4 moisture determinations include: RATAs of an SO_2 monitor, when the reference method and CEMS data are measured on a different moisture basis (wet or dry); conversion of wet-basis pollutant concentrations to the units of a *heat input-based* emissions limit when certain equations in EPA test Method 19 in appendix A–7 of part 60 of this chapter are used (*e.g.,* Eq. 19–3, 19–4, or 19–8); and stack gas molecular weight determinations. When EPA test Method 5, 5D, 26A, or 29 in appendices A–3 and A–8 of part 60 of this chapter is used for the performance test, the EPA test Method 4 moisture determination may be made by using the water collected in the impingers together with data from the dry gas meter; alternatively, a separate EPA test Method 4 determination may be made. However, when EPA test Method 26 or 30B in appendix A–8 of part 60 of this chapter is used, EPA test Method 4 must be performed separately.

16.4 Applications of EPA test Methods 5 and 5D in appendix A–3 of part 60 of this chapter. The EPA test Method 5 (or, if applicable 5D) must be used for the following applications: to demonstrate compliance with a filterable PM emissions limit; for PM tests used to set operating limits for PM CPMS; and for the initial correlations, RRAs and RCAs of a PM CEMS.

16.5 Applications of EPA test Method 6C in appendix A–4 of part 60 of this chapter. If you elect to monitor SO_2 emissions from your coal-fired EGU as a surrogate for HCl, the SO_2 CEMS must be installed, certified, operated, and maintained according to 40 CFR part 75. Part 75 allows the use of EPA test Methods 6, 6A, 6B, and 6C in appendix A–4 of part 60 of this chapter for the required RATAs of the SO_2 monitor. However, in practice, only instrumental EPA test Method 6C is used.

16.6 Applications of EPA test Methods 26 and 26A in appendix A–8 of pat 60 of this chapter. The EPA test Method 26A may be used for quarterly HCl or HF stack testing, or for the RATA of an HCl or HF CEMS. The EPA test Method 26 may be used for quarterly HCl or HF stack testing; however, for the RATAs of an HCl monitor that is following Performance Specification 18 and Procedure 6 in appendices B and F to part 60 of this chapter, EPA test Method 26 may only be used if approved upon request.

16.7 Applications of EPA test Method 29 in appendix A–8 of part 60 of this chapter. The EPA test Method 29 may be used for periodic performance stack tests to determine compliance with individual or total HAP metals emissions limits. For coal-fired EGUs, the total HAP emissions limits exclude Hg.

16.8 Applications of EPA test Method 30B in appendix A–8 of part 60 of this chapter. The EPA test Method 30B is used for 30- (or 90-) boiler operating day Hg LEE tests and RATAs of Hg CEMS and sorbent trap monitoring systems, and it may be used for quarterly Hg stack testing (oil-fired EGUs, only).

17.0 *Facility and Test Company Information.* In accordance with § 63.7(e)(3), a test is defined as three or more runs of one or more EPA Reference Method(s) conducted to measure the amount of a specific regulated pollutant, pollutants, or surrogates being emitted from a particular EGU (or group of EGUs that share a common stack), and to satisfy requirements of this subpart. On or after January 1, 2024, you must report the data elements in sections 17 and 18, each time that you complete a required performance stack test, RATA, PM CEMS correlation, RRA, or RCA at the affected EGU(s), using EPA test Method 5, 5B, 5D, 6C, 26, 26A, 29, or 30B in appendices A–3 and A–8 of part 60 of this chapter. You must also report the applicable data elements in sections 19 through 25 of this appendix for each test. If any separate, corresponding EPA test Method 2, 3A, or 4 in appendices A–1 through A–3 of part 60 of this chapter test is conducted to in order to convert a pollutant concentration to the units of the applicable emission standard given in Table 1 or 2 to this subpart or to convert pollutant concentration from wet to dry basis (or vice-versa), you must also report the applicable data elements in sections 26 through 31 of this appendix.

The applicable data elements in sections 17 through 31 of this appendix must be submitted separately, in XML format, along with the quarterly Compliance Report (for stack tests) or along with the electronic test results submitted to the ECMPS Client Tool (for CMS performance evaluations). The Electronic Reporting Tool (ERT) or an equivalent schema can be utilized to create this XML file. *Note:* Ideally, for all of the tests completed at a given facility in a particular calendar quarter, the applicable data elements in sections 17 through 31 of this appendix should be submitted together in one XML file. However, as shown in Table 8 to this subpart, the timelines for submitting stack test results and CMS performance evaluations are not identical. Therefore, for calendar quarters in which both types of tests are completed, it may not be possible to submit the applicable data elements for all of those tests in a single XML file; separate submittals may be necessary to meet the applicable reporting deadlines.

17.1 Part;
17.2 Subpart;
17.3 ORIS Code;
17.4 Facility Name;
17.5 Facility Address;
17.6 Facility City;
17.7 Facility County;
17.8 Facility State;
17.9 Facility Zip Code;
17.10 Facility Point of Contact;
17.11 Facility Contact Phone Number;
17.12 Facility Contact Email;
17.13 EPA Facility Registration System (FRS) Number;
17.14 Source Classification Code (SCC);
17.15 State Facility ID;
17.16 Project Number;
17.17 Name of Test Company;
17.18 Test Company Address;
17.19 Test Company City;
17.20 Test Company State;
17.21 Test Company Zip Code;
17.22 Test Company Point of Contact;
17.23 Test Company Contact Phone Number;
17.24 Test Company Contact Email; and
17.25 Test Comment (Optional).

18.0 *Source Information Data Elements.* You must report the following data elements, as applicable, for each source for which at least one test is included in the XML file:

18.1 Source ID (Sampling Location);
18.2 Stack (Duct) Diameter (Circular Stack) (in.);
18.3 Equivalent Diameter (Rectangular Duct or Stack) (in.);

18.4 Area of Stack;
18.5 Control Device Code; and
18.6 Control Device Description.

19.0 *Run-Level and Lab Data Elements for EPA test Methods 5, 5B, 5D, 26A, and 29 of Appendices A–3 and A–8 of Part 60 of this Chapter.* You must report the appropriate Source ID (*i.e.,* Data Element 18.1) and the following data elements, as applicable, for each run of each performance stack test, PM CEMS correlation test, RATA, RRA, or RCA conducted using isokinetic EPA test Method 5, 5B, 5D, or 26A. If your EGU is oil-fired and you use EPA test Method 26A to conduct stack tests for both HCl and HF, you must report these data elements separately for each pollutant. When you use EPA test Method 29 to measure the individual HAP metals, total filterable HAPs metals and total HAP metals, report only the run-level data elements (sections 19.1, 19.3 through 19.30, and 19.38 through 19.41 of this appendix), and the point-level and lab data elements in sections 20 and 21 of this appendix:

19.1 Test Number;
19.2 Pollutant Name;
19.3 EPA Test Method;
19.4 Run Number;
19.5 Corresponding Reference Method(s), if applicable;
19.6 Corresponding Reference Method(s) Run Number, if applicable;
19.7 Number of Traverse Points;
19.8 Run Begin Date;
19.9 Run Start Time (Clock Time Start);
19.10 Run End Date;
19.11 Run End Time (Clock Time End);
19.12 Barometric Pressure;
19.13 Static Pressure;
19.14 Cumulative Elapsed Sampling Time;
19.15 Percent O_2;
19.16 Percent CO_2;
19.17 Pitot Tube ID;
19.18 Pitot Tube Calibration Coefficient;
19.19 Nozzle Calibration Diameter;
19.20 F-Factor (F_d, F_w, or F_c);
19.21 Calibration Coefficient of Dry Gas Meter (Y);
19.22 Total Volume of Liquid Collected in Impingers and Silica Gel;
19.23 Percent Moisture—Actual;
19.24 Dry Molecular Weight of Stack Gas;
19.25 Wet Molecular Weight of Stack Gas;
19.26 Initial Reading of Dry Gas Meter Volume (dcf);
19.27 Final Reading of Dry Gas Meter Volume (dcf);
19.28 Stack Gas Velocity—fps;
19.29 Stack Gas Flow Rate—dscfm;
19.30 Type of Fuel;
19.31 Pollutant Mass Collected (value);
19.32 Pollutant Mass Unit of Measure;
19.33 Detection Limit Flag;
19.34 Pollutant Concentration;
19.35 Pollutant Concentration Unit of Measure;
19.36 Pollutant Emission Rate;
19.37 Pollutant Emission Rate Units of Measure (in Units of the Standard);
19.38 Compliance Limit Basis (Heat Input or Electrical Output);
19.39 Heat Input or Electrical Output Unit of Measure;
19.40 Process Parameter (value);
19.41 Process Parameter Unit of Measure;
19.42 Converted Concentration for PM CEMS only; and
19.43 Converted Concentration Units (Units of Correlation for PM CEMS).

20.0 *Point-Level Data Elements for EPA test Methods 5, 5B, 5D, 26A, & 29 in Appendices A–3 and A–8 of Part 60 of this Chapter.* To link the point-level data with the run data in the xml schema, you must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 19.3), Run Number (Data Element 19.4), and Run Begin Date (Data Element 19.8) with the following point-level data elements for each run of each performance stack test, PM CEMS correlation test, RATA, RRA, or RCA conducted using isokinetic EPA test Method 5, 5B, 5D, 26A, or 29. Note that these data elements are required for all EPA test Method 29 applications, whether the method is being used to measure the total or individual HAP metals concentrations:

20.1 Traverse Point ID;
20.2 Stack Temperature;
20.3 Differential Pressure Reading (ΔP);
20.4 Orifice Pressure Reading (ΔH);
20.5 Dry Gas Meter Inlet Temperature;
20.6 Dry Gas Meter Outlet Temperature; and
20.7 Filter Temperature.

21.0 *Laboratory Results for EPA test Method 29 in Appendix A–8 of Part 60 of this Chapter—Total or Individual Multiple HAP Metals.* If you use EPA test Method 29 and elect to comply with the total or individual HAP metals standards, you must report run-level data elements 19.1 through 19.34 in section 19 of this appendix, and the point-level data elements in section 20 of this appendix. To link the laboratory data with the run data in the xml schema, you must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 19.3), Run Number (Data Element 19.4), and Run Begin Date (Data Element 19.8) with the results of the laboratory analyses. Regardless of whether you elect to comply with the total HAP metals standard or the individual HAP metals standard, you must report the front half catch, the back half catch and the sum of the front and back half catches collected with EPA test Method 29 for each individual HAP metal and for the total HAP metals. The list of individual HAP metals is Antimony, Arsenic, Beryllium, Cadmium Chromium, Cobalt, Lead, Manganese, Nickel, Selenium and Mercury (if applicable). You must also calculate and report the pollutant emission rates(s) in relation to the standard(s) with which you have elected to comply and the units specified in Table 5 to this subpart as follows:

21.1 Each Individual HAP metal total mass collected:
21.1.1 Pollutant Name;
21.1.2 Pollutant Mass Collected;
21.1.3 Pollutant Mass Units of Measure; and
21.1.4 Detection Limit Flag.
21.2 Each Individual HAP metal Front Half:
21.2.1 Pollutant Name;
21.2.2 Pollutant Mass Collected;
21.2.3 Pollutant Mass Units of Measure; and
21.2.4 Detection Limit Flag.
21.3 Each Individual HAP metal Back Half:
21.3.1 Pollutant Name;
21.3.2 Pollutant Mass Collected;
21.3.3 Pollutant Mass Units of Measure; and
21.3.4 Detection Limit Flag.
21.4 Each Individual HAP metal concentration:
21.4.1 Pollutant Name;
21.4.2 Pollutant Concentration; and
21.4.3 Pollutant Concentration Units of Measure.
21.5 Each Individual HAP metal emission rate in units of the standard:
21.5.1 Pollutant Name
21.5.2 Pollutant Emission Rate and
21.5.3 Pollutant Emission Rate Units of Measure.
21.6 Each Individual HAP metal emission rate in units of lbs/MMBTU or lbs/MW (per Table 5 to this subpart):
21.6.1 Pollutant Name;
21.6.2 Pollutant Emission Rate; and
21.6.3 Pollutant Emission Rate Units of Measure.
21.7 Total Filterable HAPs metals mass collected:
21.7.1 Pollutant Name;
21.7.2 Pollutant Mass Collected;
21.7.3 Pollutant Mass Units of Measure; and
21.7.4 Detection Limit Flag.
21.8 Total Filterable HAPs metals concentration:
21.8.1 Pollutant Name;
21.8.2 Pollutant Concentration; and
21.8.3 Pollutant Concentration Units of Measure.
21.9 Total Filterable HAPs metals in units of lbs/MMBtu or lbs/MW (per Table 5 to this subpart):
21.9.1 Pollutant Name;
21.9.2 Pollutant Emission Rate; and
21.9.3 Pollutant Emission Rate Units of Measure.
21.10 Total HAPs metals mass collected:
21.10.1 Pollutant Name;
21.10.2 Pollutant Mass Collected;
21.10.3 Pollutant Mass Units of Measure; and
21.10.4 Detection Limit Flag.
21.11 Total HAPs metals concentration
21.11.1 Pollutant Name;
21.11.2 Pollutant Concentration; and
21.11.3 Pollutant Concentration Units of Measure.
21.12 Total HAPs metals Emission Rate in Units of the Standard:
21.12.1 Pollutant Name;
21.12.2 Pollutant Emission Rate; and
21.12.3 Pollutant Emission Rate Units of Measure.
21.13 Total HAPs metals Emission Rate in lbs/MMBtu or lbs/MW (per Table 5 to this subpart):
21.13.1 Pollutant Name;
21.13.2 Pollutant Emission Rate; and
21.13.3 Pollutant Emission Rate Units of Measure.

22.0 *Run-Level and Lab Data Elements for EPA test Method 26 in Appendix A–8 to Part 60 of this Chapter.* If you use EPA test Method 26, you must report the Source ID (*i.e.,* Data Element 18.1) and the following run-level data elements for each test run. If

your EGU is oil-fired and you use EPA test Method 26 to conduct stack tests for both HCl and HF, you must report these data elements separately for each pollutant:

22.1 Test Number;
22.2 Pollutant Name;
22.3 EPA Test Method;
22.4 Run Number;
22.5 Corresponding Reference Method(s), if applicable;
22.6 Corresponding Reference Method(s) Run Number, if applicable;
22.7 Number of Traverse Points;
22.8 Run Begin Date;
22.9 Run Start Time (Clock Start Time);
22.10 Run End Date;
22.11 Run End Time (Clock End Time);
22.12 Barometric Pressure;
22.13 Cumulative Elapsed Sampling Time;
22.14 Calibration Coefficient of Dry Gas Meter (Y);
22.15 Initial Reading of Dry Gas Meter Volume (dcf);
22.16 Final Reading of Dry Gas Meter Volume (dcf);
22.17 Percent O_2;
22.18 Percent CO_2;
22.19 Type of Fuel;
22.20 F-Factor (F_d, F_w, or F_c);
22.21 Pollutant Mass Collected (value);
22.22 Pollutant Mass Units of Measure;
22.23 Detection Limit Flag;
22.24 Pollutant Concentration;
22.25 Pollutant Concentration Unit of Measure;
22.26 Compliance Limit Basis (Heat Input or Electrical Output);
22.27 Heat Input or Electrical Output Unit of Measure;
22.28 Process Parameter (value);
22.29 Process Parameter Unit of Measure;
22.30 Pollutant Emission Rate; and
22.31 Pollutant Emission Rate Units of Measure (in the Units of the Standard).

23.0 *Point-Level Data Elements for EPA test Method 26 in Appendix A–8 to Part 60 of this Chapter.* To link the point-level data in this Section with the run-level data in the XML schema, you must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 22.3), Run Number (Data Element 22.4), and Run Begin Date (Data Element 22.8) from section 22 of this appendix and the following point-level data elements for each run of each EPA test Method 26 test:

23.1 Traverse Point ID;
23.2 Filter Temperature; and
23.3 Dry Gas Meter Temperature.

24.0 *Run-Level Data for EPA test Method 30B in Appendix A–8 to Part 60 of this Chapter.* You must report Source ID (*i.e.,* Data Element 18.1) and the following run-level data elements for each EPA test Method 30B test run:

24.1 Test Number;
24.2 Pollutant Name;
24.3 EPA Test Method;
24.4 Run Number;
24.5 Corresponding Reference Method(s), if applicable;
24.6 Corresponding Reference Method(s) Run Number, if applicable;
24.7 Number of Traverse Points;
24.8 Run Begin Date;
24.9 Run Start Time (Clock Time Start);
24.10 Run End Date;
24.11 Run End Time (Clock Time End);
24.12 Barometric Pressure;
24.13 Percent O_2;
24.14 Percent CO_2;
24.15 Cumulative Elapsed Sampling Time;
24.16 Calibration Coefficient of Dry Gas Meter Box A (Y);
24.17 Initial Reading of Dry Gas Meter Volume (A);
24.18 Final Reading of Dry Gas Meter Volume (A);
24.19 Calibration Coefficient of Dry Gas Meter Box B (Y);
24.20 Initial Reading of Dry Gas Meter Volume (B);
24.21 Final Reading of Dry Gas Meter Volume (B);
24.22 Gas Sample Volume Units of Measure;
24.23 Post-Run Leak Rate (A);
24.24 Post-Run Leak Check Vacuum (A);
24.25 Post-Run Leak Rate (B);
24.26 Post-Run Leak Check Vacuum (B);
24.27 Sorbent Trap ID (A);
24.28 Pollutant Mass Collected, Section 1 (A);
24.29 Pollutant Mass Collected, Section 2 (A);
24.30 Mass of Spike on Sorbent Trap A;
24.31 Total Pollutant Mass Trap A;
24.32 Sorbent Trap ID (B);
24.33 Pollutant Mass Collected, Section 1 (B);
24.34 Pollutant Mass Collected, Section 2 (B);
24.35 Mass of Spike on Sorbent Trap B;
24.36 Total Pollutant Mass Trap B;
24.37 Pollutant Mass Units of Measure;
24.38 Pollutant Average Concentration;
24.39 Pollutant Concentration Units of Measure;
24.40 Method Detection Limit (MDL);
24.41 Percent Spike Recovery;
24.42 Type of Fuel;
24.43 F-Factor (F_d, F_w, or F_c);
24.44 Compliance Limit Basis (Heat Input or Electrical Output);
24.45 Heat Input or Electrical Output Unit of Measure;
24.46 Process Parameter (value);
24.47 Process Parameter Unit of Measure;
24.48 Pollutant Emission Rate; and
24.49 Pollutant Emission Rate Unit of Measure (in the Units of the Standard).

25.0 *Point-Level Data Elements for EPA test Method 30B in Appendix A–8 to Part 60 of this Chapter.* You must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 24.3), Run Number (Data Element 24.4), and Run Begin Date (Data Element 24.8) and the following point-level data elements for each run of each EPA test Method 30B test:

25.1 Traverse Point ID;
25.2 Dry Gas Meter Temperature (A);
25.3 Sample Flow Rate (A) (L/min);
25.4 Dry Gas Meter Temperature (B); and
25.5 Sample Flow Rate (B) (L/min).

26.0 *Pre-Run Data Elements for EPA test Methods 3A and 6C in Appendices A–2 and A–4 of Part 60 of this Chapter.* You must report the Source ID (*i.e.,* Data Element 18.1) and the following Pre-run data elements for each SO_2 RATA using instrumental EPA test Method 6C, and for each instrumental EPA test Method 3A O_2 or CO_2 test that is performed to convert a pollutant concentration to the units of measure of the applicable emission unit of standard in Table 1 or 2 to this subpart:

26.1 Test Number;
26.2 EPA Test Method;
26.3 Calibration Gas Cylinder Analyte;
26.4 Cylinder Gas Units of Measure;
26.5 Date of Calibration;
26.6 Calibration Low-Level Gas Cylinder ID;
26.7 Calibration Low-Level Gas Concentration;
26.8 Calibration Low-Level Cylinder Expiration Date;
26.9 Calibration Mid-Level Gas Cylinder ID;
26.10 Calibration Mid-Level Gas Concentration;
26.11 Calibration Mid-Level Cylinder Expiration Date;
26.12 Calibration High-Level Gas Cylinder ID;
26.13 Calibration High-Level Gas Concentration;
26.14 Calibration High-Level Cylinder Expiration Date;
26.15 Calibration Span;
26.16 Low-Level Gas Response;
26.17 Low-Level Calibration Error;
26.18 Low-Level APS Flag;
26.19 Mid-Level Gas Response;
26.20 Mid-Level Calibration Error;
26.21 Mid-Level APS Flag;
26.22 High-Level Gas Response;
26.23 High-Level Calibration Error; and
26.24 High-Level APS Flag.

27.0 *Run-Level Data Elements for EPA test Methods 3A and 6C in Appendices A–2 and A–4 of Part 60 of this Chapter.* You must report the Source ID (*i.e.,* Data Element 18.1) and following run-level data elements for each run of each SO_2 RATA using instrumental EPA test Method 6C, and for each run of each corresponding instrumental EPA test Method 3A test that is performed to convert a pollutant concentration to the applicable emission unit of standard in Table 1 or 2 to this subpart:

27.1 Test Number;
27.2 Pollutant or Analyte Name;
27.3 EPA Test Method;
27.4 Run Number;
27.5 Corresponding Reference Method(s), if applicable;
27.6 Corresponding Reference Method(s) Run Number(s), if applicable;
27.7 Number of Traverse Points;
27.8 Run Begin Date;
27.9 Run Start Time (Clock Time Start);
27.10 Run End Date;
27.11 Run End Time (Clock Time End);
27.12 Cumulative Elapsed Sampling Time;
27.13 Upscale (mid or high) Gas Level;
27.14 Pre-Run Low-Level Response;
27.15 Pre-Run Low-Level System Bias;
27.16 Pre-Run Low-Level Bias APS Flag;
27.17 Pre-Run Upscale (mid or high) Response;
27.18 Pre-Run Upscale (mid or high) System Bias;
27.19 Pre-Run Upscale (mid or high) Bias APS Flag;

27.20 Post-Run Low-Level Response;
27.21 Post-Run Low-Level System Bias;
27.22 Post-Run Low-Level Bias APS Flag;
27.23 Post-Run Low-Level Drift;
27.24 Post-Run Low-Level Drift APS Flag;
27.25 Post-Run Upscale (mid or high) Response;
27.26 Post-Run Upscale (mid or high) System Bias;
27.27 Post-Run Upscale (mid or high) System Bias APS Flag;
27.28 Post-Run Upscale (mid or high) Drift;
27.29 Post-Run Upscale (mid or high) Drift APS Flag;
27.30 Unadjusted Raw Emissions Average Concentration;
27.31 Calculated Average Concentration, Adjusted for Bias (C_{gas});
27.32 Concentration Units of Measure (Dry or wet);
27.33 Type of Fuel;
27.34 Process Parameter (value); and
27.35 Process Parameter Units of Measure.

28.0 *Run-Level Data Elements for EPA test Method 2 in Appendix A–1 of Part 60 of this Chapter.* When you make a separate determination of the stack gas flow rate using EPA test Method 2 separately, corresponding to a pollutant reference method test, *i.e.,* when data from the pollutant reference method cannot determine the stack gas flow rate, you must report the Source ID (*i.e.,* 18.1) and following run-level data elements for each EPA test Method 2 test run:

28.1 Test Number;
28.2 EPA Test Method;
28.3 Run Number;
28.4 Number of Traverse Points;
28.5 Run Begin Date;
28.6 Run Start Time (Clock Time Start);
28.7 Run End Date;
28.8 Run End Time (Clock Time End);
28.9 Pitot Tube ID;
28.10 Pitot Tube Calibration Coefficient;
28.11 Barometric Pressure;
28.12 Static Pressure;
28.13 Percent O_2;
28.14 Percent CO_2;
28.15 Percent Moisture—actual;
28.16 Dry Molecular Weight of Stack Gas;
28.17 Wet Molecular Weight of Stack Gas;
28.18 Stack Gas Velocity—fps; and
28.19 Stack Gas Flow Rate—dscfm.

29.0 *Point-Level Data Elements for EPA test Method 2 in Appendix A–1 of Part 60 of this Chapter.* For each run of each separate EPA test Method 2 test, you must report the Source ID (*i.e.,* Data Element 18.1), EPA Test Method (Data Element 28.2), Run Number (Data Element 28.3), and Run Begin Date (Data Element 28.5) and the following point-level data elements:

29.1 Traverse Point ID;
29.2 Stack Temperature; and
29.3 Differential Pressure Reading (ΔP).

30.0 *Run-Level Data Elements for EPA test Method 4 in Appendix A–3 of Part 60 of this Chapter.* When you make a separate EPA test Method 4 determination of the stack gas moisture content corresponding to a pollutant reference method test, *i.e.,* when data from the pollutant reference method cannot determine the moisture content, you must report the Source ID (*i.e.,* Data Element 18.1) and the following run-level data elements for each EPA test Method 4 test run:

30.1 Test Number;
30.2 EPA Test Method;
30.3 Run Number;
30.4 Number of Traverse Points;
30.5 Run Begin Date;
30.6 Run Start Time (Clock Time Start);
30.7 Run End Date;
30.8 Run End Time (Clock Time End);
30.9 Barometric Pressure;
30.10 Calibration Coefficient of Dry Gas Meter (Y);
30.11 Volume of Water Collected in Impingers and Silica Gel;
30.12 Percent Moisture-actual;
30.13 Initial Reading of Dry Gas Meter Volume (dcf);
30.14 Final Reading of Dry Gas Meter Volume (dcf); and
30.15 Dry Gas Meter Temperature (Average).

31.0 *Other Information for Each Test or Test Series.* You must provide each test included in the XML data file described in this appendix with supporting documentation, in a PDF file submitted concurrently with the XML file, such that all the data required to be reported by § 63.7(g) are provided. That supporting data include but are not limited to diagrams showing the location of the test site and the sampling points, laboratory report(s) including analytical calibrations, calibrations of source sampling equipment, calibration gas cylinder certificates, raw instrumental data, field data sheets, QA data (*e.g.,* field recovery spikes) and any required audit results and stack testers' credentials (if applicable). The applicable data elements in § 63.10031(f)(6)(i) through (xii) of this section must be entered into ECMPS with each PDF submittal; the test number(s) (see § 63.10031(f)(6)(xi)) must be included. The test number(s) must match the test number(s) in sections 19 through 31 of this appendix (as applicable).

[FR Doc. 2020–07471 Filed 4–9–20; 8:45 am]

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FEDERAL REGISTER

Vol. 85 Friday,
No. 70 April 10, 2020

Part III

The President

Federal Register
Vol. 85, No. 70
Friday, April 10, 2020

Presidential Documents

Title 3—

The President

Executive Order 13914 of April 6, 2020

Encouraging International Support for the Recovery and Use of Space Resources

By the authority vested in me as President by the Constitution and the laws of the United States of America, including title IV of the U.S. Commercial Space Launch Competitiveness Act (Public Law 114–90), it is hereby ordered as follows:

Section 1. *Policy.* Space Policy Directive–1 of December 11, 2017 (Reinvigorating America's Human Space Exploration Program), provides that commercial partners will participate in an ''innovative and sustainable program'' headed by the United States to ''lead the return of humans to the Moon for long-term exploration and utilization, followed by human missions to Mars and other destinations.'' Successful long-term exploration and scientific discovery of the Moon, Mars, and other celestial bodies will require partnership with commercial entities to recover and use resources, including water and certain minerals, in outer space.

Uncertainty regarding the right to recover and use space resources, including the extension of the right to commercial recovery and use of lunar resources, however, has discouraged some commercial entities from participating in this enterprise. Questions as to whether the 1979 Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (the ''Moon Agreement'') establishes the legal framework for nation states concerning the recovery and use of space resources have deepened this uncertainty, particularly because the United States has neither signed nor ratified the Moon Agreement. In fact, only 18 countries have ratified the Moon Agreement, including just 17 of the 95 Member States of the United Nations Committee on the Peaceful Uses of Outer Space. Moreover, differences between the Moon Agreement and the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies—which the United States and 108 other countries have joined—also contribute to uncertainty regarding the right to recover and use space resources.

Americans should have the right to engage in commercial exploration, recovery, and use of resources in outer space, consistent with applicable law. Outer space is a legally and physically unique domain of human activity, and the United States does not view it as a global commons. Accordingly, it shall be the policy of the United States to encourage international support for the public and private recovery and use of resources in outer space, consistent with applicable law.

Sec. 2. *The Moon Agreement.* The United States is not a party to the Moon Agreement. Further, the United States does not consider the Moon Agreement to be an effective or necessary instrument to guide nation states regarding the promotion of commercial participation in the long-term exploration, scientific discovery, and use of the Moon, Mars, or other celestial bodies. Accordingly, the Secretary of State shall object to any attempt by any other state or international organization to treat the Moon Agreement as reflecting or otherwise expressing customary international law.

Sec. 3. *Encouraging International Support for the Recovery and Use of Space Resources.* The Secretary of State, in consultation with the Secretary of Commerce, the Secretary of Transportation, the Administrator of the National Aeronautics and Space Administration, and the head of any other

executive department or agency the Secretary of State determines to be appropriate, shall take all appropriate actions to encourage international support for the public and private recovery and use of resources in outer space, consistent with the policy set forth in section 1 of this order. In carrying out this section, the Secretary of State shall seek to negotiate joint statements and bilateral and multilateral arrangements with foreign states regarding safe and sustainable operations for the public and private recovery and use of space resources.

Sec. 4. *Report on Efforts to Encourage International Support for the Recovery and Use of Space Resources.* No later than 180 days after the date of this order, the Secretary of State shall report to the President, through the Chair of the National Space Council and the Assistant to the President for National Security Affairs, regarding activities carried out under section 3 of this order.

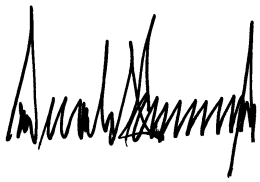
Sec. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(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 order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order 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.



THE WHITE HOUSE,
April 6, 2020.

[FR Doc. 2020–07800
Filed 4–9–20; 11:15 am]
Billing code 3295–F0–P

Presidential Documents

Memorandum of April 7, 2020

Providing Federal Support for Governors' Use of the National Guard To Respond to COVID–19

Memorandum for the Secretary of Defense [and] the Secretary of Homeland Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the ''Stafford Act''), and section 502 of title 32, United States Code, it is hereby ordered as follows:

Section 1. *Policy.* It is the policy of the United States to take measures to assist State Governors under the Stafford Act in their responses to all threats and hazards to the American people in their respective States. Considering the profound and unique public health risks posed by the ongoing outbreak of COVID–19, the disease caused by the novel (new) coronavirus known as SARS–CoV–2 (''the virus''), the need for close cooperation and mutual assistance between the Federal Government and the States is greater than at any time in recent history. In recognizing this serious public health risk, I noted that on March 11, 2020, the World Health Organization announced that the COVID–19 outbreak can be characterized as a pandemic. On March 13, 2020, I declared a national emergency recognizing the threat that SARS–CoV–2 poses to the Nation's healthcare systems. I also determined that same day that the COVID–19 outbreak constituted an emergency, of nationwide scope, pursuant to section 501(b) of the Stafford Act (42 U.S.C. 5191(b)). All States have activated their Emergency Operations Centers and are working to fight the spread of the virus and attend to those who have symptoms or who are already infected with COVID–19. To provide maximum support to the Governors of the States of Arizona, Colorado, Kentucky, Mississippi, Montana, Nevada, North Carolina, Oregon, Pennsylvania, South Carolina, Virginia, Wisconsin, and West Virginia as they make decisions about the responses required to address local conditions in each of their respective jurisdictions and as they request Federal support under the Stafford Act, I am taking the actions set forth in sections 2 and 3 of this memorandum:

Sec. 2. *One Hundred Percent Federal Cost Share.* To maximize assistance to the Governors of the States of Arizona, Colorado, Kentucky, Mississippi, Montana, Nevada, North Carolina, Oregon, Pennsylvania, South Carolina, Virginia, Wisconsin, and West Virginia to facilitate Federal support with respect to the use of National Guard units under State control, I am directing the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security to fund 100 percent of the emergency assistance activities associated with preventing, mitigating, and responding to the threat to public health and safety posed by the virus that these States undertake using their National Guard forces, as authorized by sections 403 (42 U.S.C. 5170b) and 503 (42 U.S.C. 5193) of the Stafford Act.

Sec. 3. *Support of Operations or Missions to Prevent and Respond to the Spread of COVID–19.* I am directing the Secretary of Defense, to the maximum extent feasible and consistent with mission requirements (including geographic proximity), to request pursuant to 32 U.S.C. 502(f) that the Governors of the States of Arizona, Colorado, Kentucky, Mississippi, Montana, Nevada, North Carolina, Oregon, Pennsylvania, South Carolina, Virginia, Wisconsin,

and West Virginia order National Guard forces to perform duty to fulfill mission assignments, on a fully reimbursable basis, that FEMA issues to the Department of Defense for the purpose of supporting their respective State and local emergency assistance efforts under the Stafford Act.

Sec. 4. *Termination.* The 100 percent Federal cost share for National Guard forces pursuant to this memorandum, and in my prior memoranda dated March 22, 28, and 30, 2020, and April 2, 2020, each titled ''Providing Federal Support for Governors' Use of the National Guard to Respond to COVID–19,'' is effective for orders of duty of a duration of 31 days or fewer. These orders of duty must be effective no later than 2 weeks from the date of this memorandum.

Sec. 5. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

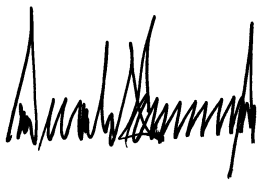
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(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) The Secretary of Defense is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, April 7, 2020

[FR Doc. 2020–07801
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Federal Register

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List March 30, 2020

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