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

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1650

Temporary Waiver of Notarization Requirement for Spousal Consent

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Interim rule.

SUMMARY: In light of emergency stay-at-home and shelter-in-place orders issued all over the country, the Federal Retirement Thrift Investment Board (FRTIB) is temporarily waiving the requirement to notarize a spouse's signature on withdrawal election forms.

DATES: This interim rule is effective April 17, 2020 and shall remain effective until withdrawn. The FRTIB will consider public comments regarding the duration of time that this rule should remain effective. Comments must be received by May 18, 2020.

ADDRESSES: You may submit comments using one of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Office of General Counsel, Attn: Megan G. Grumbine, Federal Retirement Thrift Investment Board, 77 K Street NE, Suite 1000, Washington, DC 20002.
- *Facsimile:* Comments may be submitted by facsimile at (202) 942–1676.

Since March 23, 2020, the FRTIB has been operating under a mandatory telework status due to the coronavirus pandemic which has severely limited the ability to timely monitor mail and facsimiles. Therefore, we strongly encourage using the Federal Rulemaking Portal to submit comments.

FOR FURTHER INFORMATION CONTACT:

For press inquiries, contact Kim Weaver at (202) 942–1641.

For information about how to comment on this interim rule, contact Laurissa Stokes at (202) 942–1645.

SUPPLEMENTARY INFORMATION:

Background

The FRTIB administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

A spouse of a FERS or uniformed services TSP participant has an automatic legal entitlement to a survivor annuity. Annuities are purchased with the balance of the participant's TSP account, and such purchases are made pursuant a withdrawal election. Consequently, the default TSP withdrawal election is a joint life annuity with the 50% survivor benefit. The participant cannot make any other type of withdrawal unless the participant's spouse signs a written statement waiving his or her entitlement to a survivor annuity. This signed, written waiver (''spousal consent'') is a statutory requirement. 5 U.S.C. 8435(b) and (c). The statute does not, however, require spousal consent to be notarized.

The FRTIB Executive Director has the authority to issue regulations to administer the TSP. 5 U.S.C. 8474(b)(5). In 2003, the Executive Director published a regulation requiring spousal consent to be notarized. 68 FR 74450 (December 23, 2003).

Necessity and Effect of This Interim Rule

The coronavirus pandemic has disrupted day-to-day life in an unprecedented way. These disruptions, which include mandatory business and school closures, stay-at-home/shelter-in-place orders, and quarantines have made it difficult and unsafe to have forms notarized in-person.

States are increasingly permitting remote online notarization. As of January 1, 2020, twenty-two states had already adopted laws that enable notaries to perform remote notarizations. In response to the coronavirus pandemic, at least 21 states have issued emergency orders that accelerate the effective dates of laws that would permit remote notarization or temporarily waive certain provisions of law that would otherwise impede the availability of remote notarization.

The FRTIB recognizes that many TSP participants will confront extraordinary uncertainty due to rapid evolution of state laws and unfamiliarity with the technology used for remote notarization. In addition, the TSP does not currently have the technological workflow to allow participants to submit remotely notarized forms electronically. Although the FRTIB is diligently working to add this capability, it is not yet available.

Under these conditions, the regulation requiring spousal consent to be notarized has become an extraordinary hurdle for married TSP participants who need to request a withdrawal during this difficult time. Therefore, the Executive Director has determined that is necessary to temporarily waive the notarization requirement for spousal consent.

Only the notarization requirement is waived. Married participants must still obtain their spouse's consent. The consent must be evidenced by the spouse's signature (or any electronic signature alternative that the TSP has deemed sufficient to constitute written consent). Participants are reminded that any intentional false statement or willful misrepresentation concerning their marital status or provision of their spouse's consent is punishable by fine or imprisonment of up to 5 years, or both. 18 U.S.C. 1001.

Type of Rulemaking

The Administrative Procedure Act, Public Law 79–404, 60 Stat. 237, generally requires that an agency publish an adopted rule in the **Federal Register** at least 30 days before it becomes effective in order to provide an opportunity for public comment. This requirement does not apply, however, if the agency ''for good cause finds . . . that notice and public procedure are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(3)(B). Given the significant and immediate impact of the coronavirus pandemic on TSP participants, as discussed above, the FRTIB finds that good cause exists to dispense with notice and comment as impracticable and unnecessary, and to act immediately to amend 5 CFR part 1650. The FRTIB will, however, consider public comments regarding the duration of time that this rule shall remain effective.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees and members of the uniformed services who participate in the Thrift Savings Plan, which is a Federal defined contribution retirement savings plan created under the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514, and which is administered by the Agency.

Paperwork Reduction Act

I certify that this regulation does not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under section 1532 is not required.

List of Subjects in 5 CFR Part 1650

Alimony, Claims, Government employees, Pensions, Retirement.

Ravindra Deo,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the FRTIB amends 5 CFR part 1650 as follows:

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

■ 1. The authority citation for part 1650 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432d, 8433, 8434, 8435, 8474(b)5 and 8474(c)(1).

■ 2. Amend § 1650.61 by revising paragraph (c)(4) to read as follows:

§ 1650.61 Spousal rights applicable to post-employment withdrawals.

* * * * *

(c) * * *

(4) Unless the TSP granted the participant an exception under this subpart to the spousal notification requirement within 90 days of the date the withdrawal form is processed by the TSP, to show that the spouse has consented to a different total or partial withdrawal election or installment payment change and waived the right to this annuity with respect to the applicable amount, the participant must submit to the TSP record keeper a properly completed withdrawal request form, signed by his or her spouse. If the TSP granted the participant an exception to the signature requirement, the participant should enclose a copy of the TSP's approval letter with the withdrawal form.

* * * * *

■ 3. Amend § 1650.62 by revising paragraph (c) to read as follows:

§ 1650.62 Spousal rights applicable to in-service withdrawals.

* * * * *

(c) Unless the participant was granted an exception under this subpart to the signature requirement within 90 days of the date the withdrawal form is processed by the TSP, before obtaining an in-service withdrawal, a participant who is covered by FERS or who is a member of the uniformed services must obtain the consent of his or her spouse and waiver of the spouse's right to a joint and survivor annuity described in § 1650.61(c) with respect to the applicable amount.

To show the spouse's consent and waiver, a participant must submit to the TSP record keeper a properly completed withdrawal request form, signed by his or her spouse. Once a form containing the spouse's consent and waiver has been submitted to the TSP record keeper, the spouse's consent is irrevocable for that withdrawal.

[FR Doc. 2020–07734 Filed 4–16–20; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 34

[Docket No. OCC–2020–0014]

RIN 1557–AE86

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Docket No. R–1713]

RIN 7100–AF87

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 323

RIN 3064–AF48

Real Estate Appraisals

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); and the Federal Deposit Insurance Corporation (FDIC).

ACTION: Interim final rule with request for comments.

SUMMARY: The OCC, Board, and FDIC (collectively, the agencies) are adopting an interim final rule to amend the agencies' regulations requiring appraisals of real estate for certain transactions. The interim final rule defers the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate. Regulated institutions should make best efforts to obtain a credible valuation of real property collateral before the loan closing, and otherwise underwrite loans consistent with the principles in the agencies' Standards for Safety and Soundness and Real Estate Lending Standards. The agencies are providing this relief to allow regulated institutions to expeditiously extend liquidity to creditworthy households and businesses in light of recent strains on the U.S. economy as a result of the National Emergency declared in connection with coronavirus disease 2019 (COVID–19).

DATES: The interim final rule is effective April 17, 2020 through December 31, 2020. Comments on the interim final rule must be received no later than June 1, 2020.

ADDRESSES: Interested parties are encouraged to submit written comments

jointly to all of the agencies. Commenters are encouraged to use the title ''Real Estate Appraisals'' to facilitate the organization and distribution of comments among the agencies. Comments should be directed to:

OCC: Commenters are encouraged to submit comments through the Federal eRulemaking Portal or email, if possible. Please use the title ''Real Estate Appraisals'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

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

Regulations.gov Classic: Go to *https://www.regulations.gov/.* Enter ''Docket ID OCC–2020–0014'' in the Search Box and click ''Search.'' Click on ''Comment Now'' to submit public comments. For help with submitting effective comments please click on ''View Commenter's Checklist.'' Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov,* including instructions for submitting public comments.

Regulations.gov Beta: Go to *https://beta.regulations.gov/* or click ''Visit New *Regulations.gov Site*'' from the *Regulations.gov Classic* homepage. Enter ''Docket ID OCC–2020–0014'' in the Search Box and click ''Search.'' Public comments can be submitted via the ''Comment'' box below the displayed document information or by clicking on the document title and then clicking the ''Comment'' box on the top-left side of the screen. For help with submitting effective comments please click on ''Commenter's Checklist.'' For assistance with the *Regulations.gov Beta* site, please call (877) 378–5457 (toll free) or (703) 454–9859 Monday–Friday, 9 a.m.–5 p.m. ET or email *regulations@erulemakinghelpdesk.com.*

• *Email: regs.comments@occ.treas.gov.*

• *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

• *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

• *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2020–0014'' in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

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

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

Regulations.gov Classic: Go to *https://www.regulations.gov/.* Enter ''Docket ID OCC–2020–0014'' in the Search box and click ''Search.'' Click on ''Open Docket Folder'' on the right side of the screen. Comments and supporting materials can be viewed and filtered by clicking on ''View all documents and comments in this docket'' and then using the filtering tools on the left side of the screen. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov.* The docket may be viewed after the close of the comment period in the same manner as during the comment period.

Regulations.gov Beta: Go to *https://beta.regulations.gov/* or click ''Visit New *Regulations.gov Site*'' from the *Regulations.gov Classic* homepage. Enter ''Docket ID OCC–2020–0014'' in the Search Box and click ''Search.'' Click on the ''Comments'' tab. Comments can be viewed and filtered by clicking on the ''Sort By'' drop-down on the right side of the screen or the ''Refine Results'' options on the left side of the screen. Supporting materials can be viewed by clicking on the ''Documents'' tab and filtered by clicking on the ''Sort By'' drop-down on the right side of the screen or the ''Refine Results'' options on the left side of the screen.'' For assistance with the *Regulations.gov Beta* site, please call (877) 378–5457 (toll free) or (703) 454–9859 Monday–Friday, 9 a.m.–5 p.m. ET or email *regulations@erulemakinghelpdesk.com.*

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

Board: You may submit comments, identified by Docket No. R–1713; RIN 7100–AF87, by any of the following methods:

• *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*

• *Email: regs.comments@federalreserve.gov.* Include docket and RIN numbers in the subject line of the message.

• *FAX:* (202) 452–3819 or (202) 452–3102.

• *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments will be made available on the Board's website at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684.

FDIC: You may submit comments, identified by RIN 3064–AF48, by any of the following methods:

• *Agency Website: https://www.fdic.gov/regulations/laws/federal/.* Follow the instructions for submitting comments on the Agency website.

• *Email: comments@fdic.gov.* Include the RIN 3064–AF48 in the subject line of the message.

• *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

Instructions: Comments submitted must include ''FDIC'' and ''RIN 3064–AF48.'' Comments received will be posted without change to *https://www.fdic.gov/regulations/laws/federal/,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

OCC: G. Kevin Lawton, Appraiser (Real Estate Specialist), (202) 649–6670; Mitchell Plave, Special Counsel, (202) 649–5490; or Joanne Phillips, Counsel, Chief Counsel's Office (202) 649–5500; Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. For persons who are deaf or hearing impaired, TTY users may contact (202) 649–5597.

Board: Anna Lee Hewko, Associate Director, (202) 530–6260; Teresa A. Scott, Manager, Policy Development Section, (202) 973–6114; Carmen Holly, Lead Financial Institution Policy Analyst, (202) 973–6122, Division of Supervision and Regulation; Laurie Schaffer, Deputy General Counsel, (202) 452–2272; Derald Seid, Senior Counsel, (202) 452–2246; Trevor Feigleson,

Senior Attorney, (202) 452–3274; David Imhoff Legal Assistant/Attorney, (202) 452–2249, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869.

FDIC: Beverlea S. Gardner, Senior Examination Specialist, Division of Risk Management and Supervision, (202) 898–3640, *BGardner@FDIC.gov;* Benjamin K. Gibbs, Counsel, Legal Division, (202) 898–6726; Mark Mellon, Counsel, Legal Division, (202) 898–3884; or, Lauren Whitaker, Senior Attorney, Legal Division, (202) 898–3872, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. For the hearing impaired only, TDD users may contact (202) 925–4618.

SUPPLEMENTARY INFORMATION:

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I. Introduction

A. Background

Impact of COVID–19 on appraisals and evaluations. Due to the impact of COVID–19, businesses and individuals have a heightened need for additional liquidity. Being able to quickly access equity in real estate could help address this need. However, government restrictions on non-essential movement and health and safety advisories in response to the National Emergency declared in connection with COVID–19,[1] including those relating to social distancing, have led to complications with respect to performing and completing real property appraisals and evaluations needed to comply with federal appraisal regulations. As a result, some borrowers may experience delays in obtaining funds needed to meet immediate and near-term financial needs.

Title XI and the appraisal regulations. Title XI directs each Federal financial institutions regulatory agency to publish appraisal regulations for federally related transactions within its jurisdiction.[2] The purpose of Title XI is to protect federal financial and public policy interests[3] in real estate-related transactions by requiring that real estate appraisals used in connection with federally related transactions (Title XI appraisals) are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.[4]

Title XI directs the agencies to prescribe appropriate standards for Title XI appraisals under the agencies' respective jurisdictions.[5] At a minimum, the statute provides that a Title XI appraisal must be: (1) Performed in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP); (2) a written appraisal, as defined by the statute; and (3) subject to appropriate review for compliance with USPAP.[6] While appraisals are ordinarily completed before a lender and borrower close a real estate transaction, there is no specific requirement in USPAP that appraisals be completed at a specific time relative to the closing of a transaction.

All federally related transactions must have Title XI appraisals. Title XI defines a federally related transaction as a real estate-related financial transaction[7] that the agencies or a financial institution regulated by the agencies engages in or contracts for, that requires the services of an appraiser.[8] The agencies have authority to determine those real estate-related financial transactions that do not require the services of an appraiser and thus are not required to have Title XI appraisals.[9] The agencies have exercised this authority by exempting certain categories of real estate-related financial transactions from the agencies' appraisal requirements.[10]

The agencies have used their safety and soundness authority to require evaluations for a subset of transactions for which an appraisal is not required.[11] Under the appraisal regulations, for these transactions, financial institutions that are subject to the agencies' appraisal regulations (regulated institutions) must obtain an appropriate evaluation of real property collateral that is consistent with safe and sound banking practices.[12]

Authority to defer appraisals and evaluations. In general, the agencies require that Title XI appraisals for federally related transactions occur prior to closing of a federally related transaction.[13] The Interagency Guidelines on Appraisals and Evaluations provide similar information about evaluations.[14] Under the interim final rule, deferrals of appraisals and evaluations will allow for expeditious access to credit. The deferrals, which will be temporary, are offered in response to a National Emergency. Regulated institutions that defer receipt of an appraisal or evaluation are still expected to conduct their lending

[1] Proclamation 9994, 85 FR 15337 (March 18, 2020).

[2] The term ''Federal financial institutions regulatory agencies'' means the Board, the FDIC, the OCC, the National Credit Union Administration, and, formerly, the Office of Thrift Supervision. 12 U.S.C. 3350(6).

[3] These interests include those stemming from the federal government's roles as regulator and deposit insurer of financial institutions that engage in real estate lending and investment, guarantor or lender on mortgage loans, and as a direct party in real estate-related financial transactions. These federal financial and public policy interests have been described in predecessor legislation and accompanying Congressional reports. *See* Real Estate Appraisal Reform Act of 1988, H.R. Rep. No. 100–1001, pt. 1, at 19 (1988); 133 Cong. Rec. 33047–33048 (1987).

[4] 12 U.S.C. 3331.

[5] 12 U.S.C. 3339.

[6] *Id.*

[7] 12 U.S.C. 3350(5). A real estate-related financial transaction is defined as any transaction that involves: (i) The sale, lease, purchase, investment in or exchange of real property, including interests in property, or financing thereof; (ii) the refinancing of real property or interests in real property; and (iii) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

[8] 12 U.S.C. 3350(4).

[9] Real estate-related financial transactions that the agencies have exempted from the appraisal requirement are not federally related transactions under the agencies' appraisal regulations.

[10] *See* OCC: 12 CFR 34.43(a); Board: 12 CFR 225.63(a); FDIC: 12 CFR 323.3(a). The agencies have determined that these categories of transactions do not require appraisals by state certified or state licensed appraisers in order to protect federal financial and public policy interests or to satisfy principles of safe and sound banking.

[11] *See* OCC: 12 CFR 34.43(b); Board: 12 CFR 225.63(b); and FDIC: 12 CFR 323.3(b). Evaluations are required for exempt residential and commercial loans below the thresholds; exempt business loans; exempt subsequent transactions; and transactions subject to the rural residential exemption.

[12] The agencies have provided guidance on appraisals and evaluations through the Interagency Guidelines on Appraisals and Evaluations. *See* 75 FR 77450 (December 10, 2010), available at *https://occ.gov/news-issuances/federal-register/2010/75fr77450.pdf.*

[13] *See* OCC: 12 CFR 34.43(a), 34.44(b)&(e); Board: 12 CFR 225.63(a), 225.64(b)&(e); FDIC: 12 CFR 323.3(a), 323.4(b)&(e) (requiring an appraisal to (1) contain sufficient information and analysis to support the institution's decision to engage in the transaction, and (2) be based on the definition of market value in the regulation, which takes into account a specified closing date for the transaction).

[14] *See* 75 FR 77450 (December 10, 2010), available at *https://occ.gov/news-issuances/federal-register/2010/75fr77450.pdf.*

activity consistent with the underwriting principles in the agencies' Standards for Safety and Soundness [15] and Real Estate Lending Standards [16] that focus on the ability of a borrower to repay a loan and other relevant laws and regulations. These deferrals are not an exercise of the agencies' waiver authority, because appraisals and evaluations are being deferred, not waived. The deferrals are also not a waiver of USPAP requirements, given that (1) USPAP does not address the completion of an appraisal assignment with the timing of a lending decision; and (2) the deferred appraisal must be conducted in compliance with USPAP.

The deferral of evaluations reflects the same considerations relating to the impact of COVID–19 as the deferral of appraisals. The agencies require evaluations for certain exempt transactions as a matter of safety and soundness. Evaluations do not need to comply with USPAP, but must be sufficiently robust to support a valuation conclusion. An evaluation can be less complex than an appraisal and usually takes less time to complete than an appraisal, but it also commonly involves physical property inspections. For these reasons, the agencies also are using their safety and soundness authority [17] to allow for deferral of evaluations.

By the end of the deferral period, regulated institutions must obtain appraisals or evaluations that are consistent with safe and sound banking practices, as required by the agencies' appraisal regulations.

B. Summary of the Interim Final Rule

The interim final rule allows a temporary deferral of the requirements for appraisals and evaluations under the agencies' appraisal regulations. The deferrals apply to both residential and commercial real estate-related financial transactions, excluding transactions for acquisition, development, and construction of real estate. The agencies are excluding transactions for acquisition, development, and construction of real estate because these loans present heightened risks not associated with financing existing real estate.

Under the interim final rule, regulated institutions may close a real estate loan without a contemporaneous appraisal or evaluation, subject to a requirement that institutions obtain the appraisal or evaluation, as would have been required under the appraisal regulations without the deferral, within a grace period of 120 days after closing of the transaction. While appraisals and evaluations can be deferred, the agencies expect institutions to use best efforts and available information to develop a well-informed estimate of the collateral value of the subject property. For purposes of risk-weighting of residential mortgage exposures, an institution's prudent underwriting estimation of the collateral value of the subject property will be considered to meet the agencies' appraisal and evaluation requirements during the deferral period.[18] In addition, the agencies continue to expect regulated institutions to adhere to internal underwriting standards for assessing borrowers' creditworthiness and repayment capacity, and to develop procedures for estimating the collateral's value for the purposes of extending or refinancing credit. Transactions for acquisition, development, and construction of real estate are being excluded because repayment of those transactions is generally dependent on the completion or sale of the property being held as collateral as opposed to repayment generated by existing collateral or the borrower. The agencies also expect institutions to develop an appropriate risk mitigation strategy if the appraisal or evaluation ultimately reveals a market value significantly lower than the expected market value. An institution's risk mitigation strategy should consider safety and soundness risk to the institution, balanced with mitigation of financial harm to COVID–19-affected borrowers. The temporary provision permitting regulated institutions to defer an appraisal or evaluation for eligible transactions will expire on December 31, 2020 (a transaction closed on or before December 31, 2020 is eligible for a deferral), unless extended by the agencies. The agencies believe that the limited timeframe for the deferral will in some respects help to manage potential risk by balancing the need for immediate relief due to the National Emergency with safety and soundness concerns for risk to lenders.

II. Revisions to the Title XI Appraisal Regulations

The interim final rule adds a new, temporary provision to the appraisal regulations that provides a 120-day deferral of appraisal and evaluation requirements for all transactions secured by commercial or residential real estate during the COVID–19 pandemic, excluding transactions for acquisition, development, and construction of real estate. The interim final rule does not revise any of the existing appraisal exceptions or any other requirements with respect to the performance of evaluations.

The interim final rule will allow regulated institutions to quickly provide liquidity to owners of commercial and residential property. The temporary provision allowing regulated institutions to defer appraisals or evaluations for covered transactions will expire on December 31, 2020, unless extended by the agencies.

III. Effective Date

The interim final rule is effective April 17, 2020.

IV. Administrative Law Matters

A. Administrative Procedure Act

The agencies are issuing this interim final rule without prior notice and the opportunity for public comment and the 30-day delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA).[19] Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an ''agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' [20]

The agencies believe that the public interest is best served by implementing the interim final rule as soon as possible. As discussed above, recent events have suddenly and significantly affected global economic activity, increasing businesses' and households' need to have timely access to liquidity from real estate equity. In addition, the spread of COVID–19 has greatly increased the difficulty of performing real estate appraisals and evaluations in a timely manner. This relief will allow regulated institutions to better focus on supporting lending to creditworthy households and businesses in light of recent strains on the U.S. economy as a

[15] OCC: 12 CFR part 30, Appendix A; Board: 12 CFR 208, Appendix D–1; and FDIC: 12 CFR part 364, Appendix A.

[16] OCC: 12 CFR part 34, subpart D, Appendix A; Board: 12 CFR 208, Subpart E, Appendix C; and FDIC: 12 CFR part 365, subpart A, Appendix A. Financial institutions should have a program for establishing the market value of real property to comply with these real estate lending standards, which require financial institutions to determine the value used in loan-to-value calculations based in part on a value set forth in an appraisal or an evaluation.

[17] See 12 U.S.C. 1831p–1.

[18] *See* OCC: 12 CFR 3.32(g); Board: 12 CFR 217.32(g); FDIC: 12 CFR 324.32(g).

[19] 5 U.S.C. 553.

[20] 5 U.S.C. 553(b)(B).

result of COVID–19, while reaffirming the safety and soundness principle that valuation of collateral is an essential part of the lending decision. For these reasons, the agencies find that there is good cause consistent with the public interest to issue the rule without advance notice and comment.[21]

The APA also requires a 30-day delayed effective date, except for (1) substantive rules which grant or recognize an exemption or relieve a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause.[22] Because the rules relieve a restriction, the interim final rule is exempt from the APA's delayed effective date requirement.[23] Additionally, the agencies find good cause to publish the interim final rule with an immediate effective date for the same reasons set forth above under the discussion of section 553(b)(B) of the APA.

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

B. Congressional Review Act

For purposes of Congressional Review Act, the Office of Management and Budget (OMB) makes a determination as to whether a final rule constitutes a ''major'' rule.[24] If a rule is deemed a ''major rule'' by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.[25]

The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in (A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.[26]

For the same reasons set forth above with respect to APA requirements, the agencies are adopting the interim final rule without the delayed effective date generally prescribed under the Congressional Review Act. The delayed effective date required by the Congressional Review Act does not apply to any rule for which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.[27] In light of households' and businesses' immediate need to access liquidity from real estate equity, combined with the difficulty of obtaining appraisals during the ongoing COVID–19 outbreak, the agencies believe that delaying the effective date of the rule would be contrary to the public interest.

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

C. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 [28] (PRA), the agencies may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The agencies have reviewed this final rule and determined that it would not introduce any new or revise any collection of information pursuant to the PRA. Therefore, no submissions will be made to OMB for review.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [29] generally requires that an agency to consider whether the rule it proposes will have a significant economic impact on a substantial number of small entities.[30] The RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b).[31] As discussed previously, consistent with section 553(b)(B) of the APA, the agencies have determined for good cause that general notice and opportunity for public comment is unnecessary, and therefore the agencies are not issuing a notice of proposed rulemaking. Accordingly, the agencies have concluded that the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply.

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

E. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),[32] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), each Federal banking agency must consider, consistent with the principle of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosure, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions, including for good cause.[33] The interim final rule would not impose any additional reporting, disclosure, or other new requirements on IDIs. Therefore, for the reasons described above, the agencies find good cause exists under section 302 of RCDRIA to publish this interim final rule with an immediate effective date. As such, the interim final rule will be effective on April 17, 2020. Nevertheless, the agencies seek comment on RCDRIA.

F. Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act [34] requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The agencies have sought to present the final rule in a simple and straightforward manner and invite comments on whether there are additional steps the

[21] 5 U.S.C. 553(b)(B); 553(d)(3)

[22] 5 U.S.C. 553(d).

[23] 5 U.S.C. 553(d)(1).

[24] 5 U.S.C. 801 *et seq.*

[25] 5 U.S.C. 801(a)(3).

[26] 5 U.S.C. 804(2).

[27] 5 U.S.C. 808(2).

[28] 44 U.S.C. 3501–3521.

[29] 5 U.S.C. 601 *et seq.*

[30] 5 U.S.C. 604. Under regulations issued by the Small Business Administration, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of $600 million or less and trust companies with total assets of $41.5 million or less. See 13 CFR 121.201.

[31] 5 U.S.C. 604(a).

[32] 12 U.S.C. 4802(a).

[33] 12 U.S.C. 4802.

[34] 12 U.S.C. 4809.

agencies could take to make the rule easier to understand. For example:

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

G. OCC Unfunded Mandates Reform Act of 1995 Determination

As a general matter, the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531 *et seq.,* requires the preparation of a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. However, the UMRA does not apply to final rules for which a general notice of proposed rulemaking was not published.[35] Therefore, because the OCC has found good cause to dispense with notice and comment for this interim final rule, the OCC has not prepared an economic analysis of the rule under the UMRA.

List of Subjects

12 CFR Part 34

Appraisal, Appraiser, Banks, Banking, Consumer protection, Credit, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Capital planning, Holding companies, Reporting and recordkeeping requirements, Securities, Stress testing

12 CFR Part 323

Banks, banking, Mortgages, Reporting and recordkeeping requirements, Savings associations.

[35] *See* 2 U.S.C. 1532(a).

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons set forth in the joint preamble, the OCC amends part 34 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 34—REAL ESTATE LENDING AND APPRAISALS

■ 1. The authority citation for part 34 continues to read as follows:

Authority: 12 U.S.C. 1, 25b, 29, 93a, 371, 1462a, 1463, 1464, 1465, 1701j–3, 1828(o), 3331 *et seq.,* 5101 *et seq.,* and 5412(b)(2)(B), and 15 U.S.C. 1639h.

■ 2. Section 34.43 is amended by adding paragraph (f) to read as follows:

§ 34.43 Appraisals required; transactions requiring a State certified or licensed appraiser.

* * * * *

(f) *Deferrals of appraisals and evaluations for certain residential and commercial transactions*—(1) *120-day grace period.* The completion of appraisals and evaluations required under paragraphs (a) and (b) of this section may be deferred up to 120 days from the date of closing.

(2) *Covered transactions.* The deferrals authorized under paragraph (f)(1) of this section apply to all residential and commercial real estate-secured transactions, excluding transactions for acquisition, development, and construction of real estate.

(3) *Sunset.* The appraisal and evaluation deferrals authorized by this paragraph (f) will expire for transactions closing after December 31, 2020.

FEDERAL RESERVE BOARD

12 CFR Chapter II

Authority and Issuance

For the reasons set forth in the joint preamble, the Board amends part 225 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

■ 3. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331 *et seq.,* 31206, 31207, and 31209; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

■ 4. Section 225.63 is amended by adding paragraph (f) to read as follows:

§ 225.63 Appraisals required; transactions requiring a State certified or licensed appraiser.

* * * * *

(f) *Deferrals of appraisals and evaluations for certain residential and commercial transactions*—(1) *120-day grace period.* The completion of appraisals and evaluations required under paragraphs (a) and (b) of this section may be deferred up to 120 days from the date of closing.

(2) *Covered transactions.* The deferrals authorized under paragraph (f)(1) of this section apply to all residential and commercial real estate-secured transactions, excluding transactions for acquisition, development, and construction of real estate.

(3) *Sunset.* The appraisal and evaluation deferrals authorized by this paragraph (f) will expire for transactions closing after December 31, 2020.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

Authority and Issuance

For the reasons set forth in the joint preamble, the FDIC amends part 323 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 323—APPRAISALS

■ 5. The authority citation for part 323 continues to read as follows:

Authority: 12 U.S.C. 1818, 1819(a) (''Seventh'' and ''Tenth''), 1831p–1 and 3331 *et seq.*

■ 6. Section 323.3 is amended by adding paragraph (g) to read as follows:

§ 323.3 Appraisals required; transactions requiring a State certified or licensed appraiser.

* * * * *

(g) *Deferrals of appraisals and evaluations for certain residential and commercial transactions*—(1) *120-day grace period.* The completion of appraisals and evaluations required under paragraphs (a) and (b) of this section may be deferred up to 120 days from the date of closing.

(2) *Covered transactions.* The deferrals authorized under paragraph (g)(1) of this section apply to all residential and commercial real estate-secured transactions, excluding transactions for acquisition, development, and construction of real estate.

(3) *Sunset.* The appraisal and evaluation deferrals authorized by this

paragraph (g) will expire for transactions closing after December 31, 2020.

Brian P. Brooks,

First Deputy Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, April 10, 2020.

Ann Misback,

Secretary of the Board.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on or about April 10, 2020.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2020–08216 Filed 4–16–20; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0947; Product Identifier 2017–SW–059–AD; Amendment 39–19902; AD 2020–08–10]

RIN 2120–AA64

Airworthiness Directives; Robinson Helicopter Company Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Robinson Helicopter Company (Robinson) Model R44 and R44 II helicopters. This AD was prompted by reports of cracking in certain tail rotor blades. This AD requires visually checking each tail rotor blade for a crack. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 22, 2020.

ADDRESSES: For service information identified in this final rule, contact Robinson Helicopter Company, 2901 Airport Drive, Torrance, CA 90505; telephone 310–539–0508; fax 310–539–5198; or at *https://robinsonheli.com/technical-support/.* You may view a copy of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0947; 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 AD, 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: James Guo, Aerospace Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone 562–627–5357; email *james.guo@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 Robinson Model R44 and R44 II helicopters with a tail rotor blade part number (P/N) C029–1 or P/N C029–2 installed. The NPRM published in the **Federal Register** on May 23, 2018 (83 FR 23829). The NPRM was prompted by reports of P/N C029–1 and P/N C029–2 tail rotor blades with fatigue cracks at the leading edge. The cracks were caused by high fatigue stresses due to resonance when the blades were at high pitch angles from large left pedal inputs. The NPRM proposed to require visually checking each tail rotor blade for a crack. The proposed requirements were intended to detect a cracked tail rotor blade and prevent loss of the blade and subsequent loss of directional control. The FAA is issuing this AD to address the unsafe condition on these products.

Since the FAA issued the NPRM, the website address for Robinson changed. This AD updates that website address.

Comments

The FAA gave the public the opportunity to comment on the NPRM. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request: Robinson requested the FAA change the wording in the Discussion section that states the cracks in tail rotor blades were caused by ''stresses due to resonance when the blades were at high pitch angles from large left pedal inputs'' to ''stresses during maneuvers with large left pedal inputs.''

FAA Response: The FAA disagrees. The wording in the NPRM provides greater detail with regard to the mechanics of the cause of the cracking.

Request: Robinson requested the FAA change the wording in the Discussion section that describes the proposed actions' intentions by adding the word ''possible'', which would read as follows: ''prevent possible loss of the blade.'' Robinson states that even with a crack, loss of the blade is possible, but not certain.

FAA Response: The FAA disagrees. The unsafe condition described in this AD is a crack in the tail rotor blade. The current wording does not state the helicopter will lose a tail rotor blade but rather loss of a blade could occur. The description of the unsafe condition states that the condition ''could result in the loss of the tail rotor.''

Request: Robinson requested the FAA correct the two instances of the wording ''tail leading edge'' by deleting the word ''tail.'' The first instance is in the Proposed AD Requirements section and the second instance is in the Required Actions paragraph.

FAA Response: The FAA agrees and has made these corrections.

Request: Robinson requested that the FAA change the Applicability paragraph by adding the following: ''Tail rotor blade part number is visible on data plate located between bearings in blade root.''

FAA Response: The FAA disagrees because the addition is unnecessary. Parties may refer to the data plate or the aircraft's records to determine which part-numbered tail rotor blades are installed. If they are uncertain about the location of the data plate, they can refer to service information documents that interested parties have access to through their normal course of business.

Request: Robinson requested that the FAA change the wording in the Unsafe Condition paragraph to state, ''This AD defines the unsafe condition as a possible crack in the tail rotor blade'' because not all blades have a crack.

FAA Response: The FAA disagrees. The unsafe condition that is being addressed is a crack in a blade.

Request: Robinson requested that the FAA change the wording in the Required Actions section from the checks of the tail rotor blades may be conducted ''by the owner/operator'' to ''by an owner/operator.''

FAA Response: The FAA disagrees. The language requested by the commenter would unacceptably broaden the AD requirement. The FAA intended to allow the owner or operator of the aircraft, who holds at least a private pilot certificate, to perform the check when maintenance personnel are not present. The requested change in language may be interpreted to allow a pilot to perform the check on any aircraft, including aircraft that the pilot does not own or operate.

Request: Robinson requested the FAA change the wording in the Required Actions paragraph from: ''If there is a crack, before further flight, replace the tail rotor blade'' to ''If a crack is detected, replace tail rotor blade before further flight.''

FAA Response: The FAA disagrees. The wording in the NPRM sufficiently explains that if there is a crack, the tail rotor blade must be replaced.

FAA's Determination

The FAA has reviewed the relevant information, considered the comments received, and determined that an unsafe condition exists and is likely to exist or develop on other products of the same type design and that air safety and the public interest require adopting the AD requirements as proposed with the changes described previously. These changes are consistent with the intent proposed in the NPRM for correcting the unsafe condition and will not increase the economic burden on any operator nor increase the scope of the AD.

Related Service Information

The FAA has reviewed Robinson SB–83, dated May 30, 2012 (SB–83), which specifies, within 10 flight hours or by June 30, 2012, whichever occurs first, inserting a caution page into the Pilot's Operating Handbook. The caution page specifies inspecting the leading edges of each tail rotor blade for a crack before each flight. The caution page also advises that to reduce fatigue stress damage to the tail rotor blades, pilots should avoid maneuvers that require large left pedal inputs. SB–83 specifies that the caution page may be removed when the tail rotor blades are replaced with tail rotor blade P/N C029–3.

Costs of Compliance

The FAA estimates that this AD affects 1,631 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Visually checking the tail rotor blades for a crack takes about 0.2 work-hour for an estimated cost of $17 per helicopter and $27,727 for the U.S. fleet per check cycle.

Replacing a tail rotor blade takes about 2 work-hours and parts cost about $3,080 for an estimated replacement cost of $3,250 per blade.

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA determined that this 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, 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):

2020–08–10 Robinson Helicopter Company: Amendment 39–19902; Docket No. FAA–2017–0947; Product Identifier 2017–SW–059–AD.

(a) Applicability

This AD applies to Robinson Helicopter Company (Robinson) Model R44 and R44 II helicopters, certificated in any category, with a tail rotor blade part number (P/N) C029–1 or P/N C029–2 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in a tail rotor blade. This condition could result in the loss of the tail rotor and subsequent loss of control of the helicopter.

(c) Effective Date

This AD is effective May 22, 2020.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

Within 50 hours time-in-service after the effective date of this AD and thereafter before each flight:

(1) Visually check each tail rotor blade for a crack in the leading edge, paying particular attention to the area in the most inboard white paint stripe. Wipe the blades clean, if necessary, to ensure any potential crack is visible. The actions required by this paragraph may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a)(1) through (4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(2) If there is a crack, before further flight, replace the tail rotor blade.

(f) Alternative Methods of Compliance (AMOC)

(1) The Manager, Los Angeles ACO Branch, FAA, may approve AMOCs for this AD. Send your proposal to: James Guo, Aerospace Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone 562–627–5357; email *james.guo@faa.gov.*

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

(g) Related Information

Robinson Helicopter Company R44 Service Bulletin SB–83, dated May 30, 2012, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Robinson Helicopter Company, 2901 Airport Drive, Torrance, CA 90505; telephone 310–539–0508; fax 310–539–5198; or at *https://robinsonheli.com/technical-support/.* You may view a copy of information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(h) Subject

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

Issued on April 13, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–08072 Filed 4–16–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–496]

Control of the Immediate Precursor Norfentanyl Used in the Illicit Manufacture of Fentanyl as a Schedule II Controlled Substance

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration (DEA) is designating the precursor chemical, *N*-phenyl-*N*-(piperidin-4-yl)propionamide (norfentanyl) as an immediate precursor for the schedule II controlled substance fentanyl. Furthermore, DEA is finalizing the control of norfentanyl as a schedule II substance under the Controlled Substances Act (CSA).

DATES: This rulemaking becomes effective May 18, 2020.

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

SUPPLEMENTARY INFORMATION: Norfentanyl is the immediate chemical intermediary in a synthesis process currently used by clandestine laboratory operators for the illicit manufacture of the schedule II controlled substance fentanyl. The distribution of illicitly manufactured fentanyl has caused an unprecedented outbreak of thousands of fentanyl-related overdoses in the United States in recent years. DEA believes that the control of norfentanyl as a schedule II controlled substance is necessary to prevent its diversion as an immediate chemical intermediary for the illicit manufacture of fentanyl.

DEA is extremely concerned with the recent increase in the illicit manufacture and distribution of fentanyl. Therefore, on September 17, 2019, DEA published a Notice of Proposed Rulemaking (NPRM) to designate the precursor chemical, *N*-phenyl-*N*-(piperidin-4-yl)propionamide (norfentanyl), as an immediate precursor of the schedule II controlled substance fentanyl under the definition set forth in 21 U.S.C. 802(23), and to control it as a schedule II substance under the CSA. 84 FR 48815. This rulemaking finalizes that NPRM.

Legal Authority

Under 21 U.S.C. 811(e), the Attorney General may place an immediate precursor into the same schedule as the controlled substance that the immediate precursor is used to make, if the substance meets the requirements of an immediate precursor under 21 U.S.C. 802(23).

Background

The DEA is extremely concerned with the increase in the illicit manufacture and distribution of fentanyl abroad. Fentanyl is a synthetic opioid and was first synthesized in Belgium in the late 1950's. Fentanyl is controlled in schedule II of the CSA due to its high potential for abuse and dependence, and accepted medical use in treatment in the United States. Fentanyl was introduced into medical practice and is approved in the United States for anesthesia and analgesia. However, due to its pharmacological effects, fentanyl can serve as a substitute for heroin, oxycodone, and other opioids in opioid dependent individuals. The trafficking of fentanyl in the United States continues to pose an imminent hazard to the public safety. Since 2012, fentanyl has shown a dramatic increase in the illicit drug supply as a single substance, in mixtures with other illicit drugs (*i.e.* heroin, cocaine, and methamphetamine), or in forms that mimic pharmaceutical preparations including prescription opiates and benzodiazepines.

The DEA has noted a significant increase in overdoses and overdose fatalities from fentanyl in the United States in recent years. A recent report [1] from the Centers for Disease Control and Prevention (CDC) highlights this trend. According to this report, of the 41,430 drug overdose deaths occurring in the United States in 2011, 1,662 (4.0 percent) involved fentanyl.[2] Of the 63,632 drug overdose deaths in 2016, 18,335 (28.8 percent) involved fentanyl. This was the first time that fentanyl was reported in more drug related fatalities than heroin.

The increase of drug overdose deaths continued into 2017. According to the CDC,[3] there were 70,237 drug overdose deaths in the United States in 2017, an increase from the 63,632 overdose deaths recorded in 2016. Of the 70,237 overdose deaths in 2017, 47,600 (67.8 percent) involved an opioid. Deaths involving prescription opioids and heroin remained stable from 2016 to 2017; synthetic opioid overdose deaths (other than methadone), which include deaths related to fentanyl, increased 45.2 percent from 19,413 deaths in 2016 to 28,466 deaths in 2017.

The increase in overdose fatalities involving fentanyl coincides with a dramatic increase of law enforcement encounters of fentanyl. According to the National Forensic Laboratory Information System (NFLIS),[4] submissions to forensic laboratories that contained fentanyl increased exponentially beginning in 2012: 694 in 2012, 1,044 in 2013, 5,537 in 2014, 15,455 in 2015, 37,294 in 2016, 61,382 in 2017, and 70,453 in 2018.

Role of Norfentanyl in the Synthesis of Fentanyl

Fentanyl is not a naturally occurring substance. As such, the manufacture of fentanyl requires it to be produced through synthetic organic chemistry. Synthetic organic chemistry is the process for creating a new organic molecule through a series of chemical reactions, which involve precursor chemicals. In the early 2000's, a synthetic process, commonly known as the Siegfried method, was utilized to manufacture fentanyl in several domestic and foreign clandestine laboratories. 72 FR 20039. At that time, DEA had determined that two primary synthesis routes (*i.e.,* the Janssen method and the Siegfried method) were being used to produce fentanyl clandestinely, although it believed the Janssen synthesis route to be difficult to perform and beyond the rudimentary skills of most clandestine laboratory operators. The Siegfried synthetic route involves two important intermediates, *N*-phenethyl-4-piperidone (NPP) and 4-anilino-*N*-phenethylpiperidine (ANPP).

[1] Drugs Most Frequently Involved in Drug Overdose Deaths: United States, 2011–2016. National Vital Statistics Reports; vol 67 no 9. Hyattsville, MD: National Center for Health Statistics, 2018.

[2] The fentanyl category includes fentanyl, fentanyl metabolites, precursors, and analogs.

[3] Scholl L, Seth P, Kariisa M, Wilson N, Baldwin G. Drug and Opioid-Involved Overdose Deaths—United States, 2013–2017. MMWR Morb Mortal Wkly Rep 2019;67:1419–1427.

[4] The National Forensic Laboratory Information System (NFLIS) is a national forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by Federal, State and local forensic laboratories in the United States. NFLIS data was queried on March 26, 2019.

The DEA controlled NPP on April 23, 2007 as a list I chemical by interim rule (72 FR 20039), which was finalized on July 25, 2008. 73 FR 43355. By final rule published on June 29, 2010, ANPP was controlled as a schedule II immediate precursor to fentanyl, with an effective date of August 30, 2010. 75 FR 37295.

In 2017, the United Nations Commission on Narcotic Drugs placed NPP and ANPP in Table I of the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (1988 Convention) in response to the international increase of fentanyl on the illicit drug market. As such, member states of the United Nations were required to regulate these precursor chemicals at the national level. In addition, the People's Republic of China regulated NPP and ANPP on February 1, 2018.

Recent law enforcement information indicates that illicit manufacturers of fentanyl also use other synthetic routes in response to regulations placed on NPP and ANPP. One of these other routes is the original published synthetic pathway to fentanyl, known as the Janssen method, previously thought to be beyond the skills of most clandestine laboratory operators. This synthetic route does not involve NPP or ANPP as precursors. This synthetic pathway involves the important precursors *N*-(1-benzylpiperidin-4-yl)-*N*-phenylpropionamide (benzylfentanyl) and *N*-phenyl-*N*-(piperidin-4-yl)propionamide (norfentanyl). Benzylfentanyl is converted into norfentanyl in one chemical reaction. Norfentanyl is then subjected to one simple chemical reaction to complete the synthesis of fentanyl. The DEA is not aware of any legitimate uses of benzylfentanyl or norfentanyl other than in the synthesis of fentanyl.

According to DEA forensic laboratory data, the Janssen method was confirmed as the synthetic route used in 94 percent of 85 fentanyl drug exhibits that were evaluated to determine the synthetic route. These exhibits were seized in 2018. In addition, the number of law enforcement encounters of benzylfentanyl increased in 2017 and 2018. As stated above, benzylfentanyl is a precursor chemical used to synthesize norfentanyl in the Janssen method. According to NFLIS,[5] there was one identification of benzylfentanyl in 2016; however, benzylfentanyl was identified in 195 reports in 2017 and 237 reports in 2018. This is believed to indicate a change in the synthetic route used by some clandestine chemists to manufacture fentanyl in efforts to evade chemical regulations on NPP and ANPP. The increase in law enforcement encounters coincides with the international control that placed NPP and ANPP in Table I of the 1988 Convention in 2017.

The DEA determined that norfentanyl is commercially available from both domestic and foreign chemical suppliers. The DEA has identified 30 domestic suppliers and 22 foreign suppliers of norfentanyl from Canada (3), China (7), Germany (2), Hong Kong (1), India (1), Japan (2), Switzerland (1), and the United Kingdom (5). Of the 30 domestic suppliers of norfentanyl, only one is a DEA registrant. As it appears that these other 29 suppliers are not registered to manufacture schedule II controlled substances, it is not likely these suppliers are manufacturing fentanyl. Norfentanyl is attractive to illicit manufacturers because of the lack of chemical regulations on this substance, it is readily available from chemical suppliers, and it can easily be converted to the schedule II controlled substance fentanyl, in a one-step chemical reaction.

Designation as an Immediate Precursor

Under 21 U.S.C. 811(e), the Attorney General may place an immediate precursor into the same schedule as the controlled substance that the immediate precursor is used to make. The substance must meet the requirements of an immediate precursor under 21 U.S.C. 802(23). The term ''immediate precursor'' is defined in 21 U.S.C. 802(23) meaning a substance being the principal compound used, or which is produced primarily for use in the manufacture of a controlled substance; which is an immediate chemical intermediary used or likely to be used in the manufacture of the controlled substance; and the control of which is necessary to prevent or limit the manufacture of such controlled substance.

The DEA finds that norfentanyl meets the three criteria for the definition of an immediate precursor under 21 U.S.C. 802(23). First, DEA finds that norfentanyl is produced primarily for use in the manufacture of the schedule II controlled substance fentanyl. As stated in the preceding section, under the Janssen method, norfentanyl is typically produced from the starting material benzylfentanyl and is then subjected to a simple one-step chemical reaction to obtain the schedule II controlled substance, fentanyl. The DEA is not aware of any legitimate use of benzylfentanyl other than in the synthesis of norfentanyl, and subsequently, fentanyl. The DEA has also not identified an industrial or other use for norfentanyl beyond the manufacture of fentanyl. DEA has not identified any other legitimate uses of norfentanyl and DEA did not receive comment to the contrary during the notice and comment period of the NPRM published on September 17, 2019. 84 FR 48815.

Second, DEA finds that norfentanyl is an immediate chemical intermediary used in the manufacture of the controlled substance fentanyl. As stated earlier, norfentanyl is produced as an intermediary in the fentanyl synthetic pathway. After it is synthesized, norfentanyl is subjected to a simple chemical reaction that converts it directly to fentanyl.

Third, DEA finds that controlling norfentanyl is necessary to prevent, curtail, and limit the unlawful manufacture of the controlled substance, fentanyl. The DEA believes this action is necessary to assist in preventing the possible theft of norfentanyl from legitimate firms. The DEA believes that clandestine manufacturers will attempt to procure unregulated chemicals in their efforts to synthesize fentanyl. As a schedule II substance, norfentanyl will be safeguarded to the same degree that pharmaceutical firms now safeguard the fentanyl that they produce. Since norfentanyl is an immediate chemical intermediary in the manufacture of fentanyl, the increased level of security is necessary to prevent diversion of norfentanyl from legitimate firms. DEA also believes control is necessary to prevent unscrupulous chemists from synthesizing norfentanyl and selling it (as an unregulated material) through the internet and other channels to individuals who may wish to acquire an unregulated precursor for the purpose of manufacturing fentanyl, a schedule II controlled substance.

The DEA believes that the control of norfentanyl is necessary to prevent its production and use in the illicit manufacture of fentanyl. Therefore, DEA is designating norfentanyl as an immediate precursor of fentanyl, a schedule II controlled substance, pursuant to 21 U.S.C. 802(23) and 21 U.S.C. 811(e).

Placement in Schedule II—Findings Required Under CSA Immediate Precursor Provisions

Pursuant to 21 U.S.C. 811(e), once norfentanyl is designated as an immediate precursor under 21 U.S.C. 802(23), it may be placed directly into schedule II (or a schedule with a higher numerical designation). The immediate precursor provision in 21 U.S.C. 811(e)

[5] NFLIS data was queried on March 26, 2019.

permits DEA to schedule an immediate precursor ''without regard to the findings required by'' section 811(a) or section 812(b) and ''without regard to the procedures'' prescribed by section 811(a) and (b). Accordingly, DEA need not address the ''factors determinative of control'' in section 811 or the findings required for placement in schedule II in section 812(b)(2). Based on the finding that norfentanyl is an ''immediate precursor'' for fentanyl, DEA is hereby placing norfentanyl directly into schedule II.

NPRM Comments

As part of the proposed rulemaking published on September 17, 2019 (84 FR 48815), DEA specifically solicited input from all potentially affected parties regarding: (1) The types of legitimate industries using norfentanyl; (2) the legitimate uses of norfentanyl; (3) the size of the domestic market for norfentanyl; (4) the number of manufacturers of norfentanyl; (5) the number of distributors of norfentanyl; (6) the level of import and export of norfentanyl; (7) the potential burden these proposed regulatory controls of norfentanyl may have on legitimate commercial activities; (8) the potential number of individuals/firms that may be adversely affected by these proposed regulatory controls (particularly with respect to the impact on small businesses); and (9) any other information on the manner of manufacturing, distribution, consumption, storage, disposal, and uses of norfentanyl by industry and others.

As part of the proposed rulemaking published on September 17, 2019 (84 FR 48815), DEA solicited information on any possible legitimate uses of norfentanyl unrelated to fentanyl production (including industrial uses) in order to assess the potential commercial impact of scheduling norfentanyl. The DEA searched information in the public domain for legitimate uses of norfentanyl and could not document legitimate commercial uses for norfentanyl other than as an intermediary chemical in the manufacture of fentanyl. DEA sought, however, to document any unpublicized use(s) and other proprietary use(s) of norfentanyl not in the public domain. Therefore, DEA solicited comment on the uses of norfentanyl in the legitimate marketplace. The DEA also solicited comment on the regulatory burden to legitimate commercial activities that would result from the placement of norfentanyl in schedule II of the CSA. The DEA did not receive comment on these topics.

The DEA invited all interested parties to provide any information on any legitimate uses of norfentanyl in industry, commerce, academia, research and development, or other applications. The DEA sought both quantitative and qualitative data; however, DEA did not receive comments on these topics.

The DEA received 15 comments in response to the NPRM. Thirteen of the 15 commenters were in support of controlling norfentanyl as a schedule II immediate precursor. The other two commenters did not specifically object to this rule. One of those two commenters stated that substance abuse is a public health issue and not a law enforcement issue. The other stated that this rule is not sufficient to disrupt the fentanyl market in the United States because illicit fentanyl is not produced in the United States. The commenter proposed access restriction and harm reduction strategies, including increased public awareness of drugs mixed with fentanyl and increased law enforcement at entry locations, as additional recommendations to reduce fentanyl misuse and abuse in the United States.

Of the 13 commenters in support of controlling norfentanyl as a schedule II immediate precursor, four commenters also included statements that the control of norfentanyl is not the only solution to address the opioid epidemic. These commenters stated that control of norfentanyl will not solve the issue of fentanyl being shipped into our country from foreign producers; that control of norfentanyl is not the only policy that should be addressed and implemented, and that alternate pathways to fentanyl should be monitored; and that control of norfentanyl will not end the opioid epidemic.

DEA response: The DEA appreciates the comments in support of controlling norfentanyl as a schedule II immediate precursor. The DEA is concerned with the abuse of illicitly manufactured fentanyl in the United States and abroad. While DEA remains aware that a comprehensive approach, to include community outreach and education, is required to combat the opioid epidemic, DEA believes that supply reduction strategies, which this rule attempts to address, are important aspects to reduce drug abuse in the United States. The control of norfentanyl as a schedule II immediate precursor is one aspect of the overall effort to combat the opioid epidemic. The DEA believes this rule will have a significant effect on reducing the supply of illicitly manufactured fentanyl.

With respect to the comments about illicit fentanyl being manufactured outside of the United States and shipped into the country from foreign producers, the designation of norfentanyl as a schedule II immediate precursor will subject this substance to the regulatory requirements of schedule II substances, including the import and export regulations. 21 CFR part 1312. The DEA believes that regulating the import and export of norfentanyl will reduce the quantity of norfentanyl destined to illicit fentanyl manufacturers, both domestically and internationally, by removing the United States as a transshipment point and as a source of diverted norfentanyl to foreign illicit fentanyl manufacturers.

The DEA is the leading agency on enforcement of drug control laws and remains committed to protecting the public by interrupting and reducing drug supply and availability in the United States. The DEA believes that the control of norfentanyl as an immediate precursor of the schedule II controlled substance fentanyl will have a significant impact on reducing the supply of illicitly manufactured fentanyl; however, DEA remains aware that supply reduction is not the only aspect of combatting the opioid epidemic. The DEA realizes that a comprehensive approach, to include community outreach and education, is required to combat the opioid epidemic. In response to the comment regarding access restriction and harm reduction strategies and the comment stating that substance abuse is a public health issue and not a law enforcement issue, DEA intends this scheduling action to reduce the supply of illicitly manufactured fentanyl, which is part of a multi-faceted strategy to combat the opioid epidemic. DEA continues to work with other federal agencies on holistic and comprehensive approaches to reduce drug abuse; however, such approaches are beyond the scope of this rule.

Requirements for Handling Norfentanyl

This rulemaking finalizes two actions. It (1) designates norfentanyl as an immediate precursor for the schedule II controlled substance, fentanyl, under the definition set forth in 21 U.S.C. 802(23); and (2) controls norfentanyl as a schedule II substance pursuant to the authority in 21 U.S.C. 811(e).

The scheduling of norfentanyl as an immediate precursor of the schedule II controlled substance, fentanyl, subjects norfentanyl to all of the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, dispensing, importing, and exporting of a schedule II controlled substance. The regulatory requirements will include the following:

1. *Registration.* Any person who manufactures, distributes, dispenses, imports, or exports norfentanyl, engages in research with respect to norfentanyl, or proposes to engage in such activities will be required to submit an application and be accepted for schedule II registration in accordance with 21 CFR part 1301.

2. *Security.* Norfentanyl will be subject to schedule II security requirements. In order to prevent diversion, norfentanyl will be manufactured, distributed, and stored in accordance with the standards for physical security and the operating procedures set forth in 21 CFR 1301.71, 1301.72(a), (c), and (d), 1301.73, 1301.74, 1301.75(b),(c), and (d) 1301.76, and 1301.77.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of norfentanyl that are distributed will be required to comply with the requirements of 21 CFR 1302.03–1302.07.

4. *Quotas.* Quotas for norfentanyl will be established pursuant to 21 CFR part 1303.

5. *Inventory.* Every registrant who possesses any quantity of norfentanyl will be required to keep an inventory of all stocks of the substance on hand pursuant to 21 CFR 1304.03, 1304.04 and 1304.11.

6. *Records and Reports.* Every DEA registrant will be required to maintain records and submit reports with respect to norfentanyl pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312.

7. *Order Forms.* Every DEA registrant who distributes norfentanyl will be required to comply with the order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305.

8. *Importation and Exportation.* All importation and exportation of norfentanyl will be required to be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312.

9. *Administrative Inspection.* Places, including factories, warehouses, or other establishments and conveyances, where registrants or other regulated persons may lawfully hold, manufacture, distribute, or otherwise dispose of a controlled substance or where records relating to those activities are maintained, are controlled premises as defined in 21 U.S.C. 880(a) and 21 CFR 1316.02(c). The CSA allows for administrative inspections of these controlled premises as provided in 21 CFR part 1316, subpart A. 21 U.S.C. 880.

10. *Liability.* Any activity with norfentanyl in violation of or not authorized under the Controlled Substances Act or the Controlled Substances Import and Export Act will be unlawful and potentially subject to criminal penalties. 21 U.S.C. 841–863 and 959–964.

Regulatory Analyses

Executive Orders 12866, 13563, and 13771, Regulatory Planning and Review, Improving Regulation and Regulatory Review, and Reducing Regulation and Controlling Regulatory Costs

This rulemaking was developed in accordance with the principles of Executive Orders 12866, 13563, and 13771. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in Executive Order 12866. Executive Order 12866 classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. DEA has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f). Executive Order 13771 requires an agency, unless prohibited by law, to identify at least two existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation.[6] In furtherance of this requirement, Executive Order 13771 requires that the new incremental costs associated with new regulations, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.[7] According to guidance provided by OMB, the requirements of Executive Order 13771 only apply to each new ''significant regulatory action that . . . imposes costs.''[8] This rule is not expected to be an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

The scheduling of norfentanyl as an immediate precursor of the schedule II controlled substance, fentanyl, subjects norfentanyl to all of the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, dispensing, importing, and exporting of a schedule II controlled substance. Norfentanyl is the immediate chemical intermediary in a synthesis process currently used by clandestine laboratory operators for the manufacture of the schedule II controlled substance fentanyl. The distribution of illicitly manufactured fentanyl has caused an unprecedented outbreak of thousands of fentanyl-related overdoses in the United States in recent years.

The DEA has not identified any industrial use for norfentanyl, other than its role as an intermediary chemical in the manufacture of fentanyl. Based on the review of import and quota information for ANPP and fentanyl, DEA believes the vast majority, if not all, of legitimate pharmaceutical fentanyl is produced from ANPP (schedule II immediate precursor for fentanyl), not norfentanyl. The quantities of ANPP permitted in the U.S., imported or manufactured pursuant to a quota, generally correspond with the quantities of legitimate pharmaceutical fentanyl produced in the United States. Additionally, DEA is not aware of norfentanyl being used for the manufacturing of legitimate pharmaceutical fentanyl; however, DEA cannot rule out the possibility that minimal quantities of norfentanyl are used for this purpose. If there are any quantities of norfentanyl used for the manufacturing of legitimate pharmaceutical fentanyl, the quantities are believed to be small and economically insignificant.

The DEA evaluated the costs and benefits of this action.

[6] Sec. 2(a).

[7] Sec. 2(c).

[8] OMB Guidance Implementing Executive Order 13771 titled ''Reducing Regulation and Controlling Regulatory Costs'' (April 5, 2017).

Costs

The DEA believes the market for norfentanyl for the legitimate manufacturing of pharmaceutical fentanyl is minimal. As stated above, the only use for norfentanyl of which DEA is aware is for the manufacturing of fentanyl. Any manufacturer, distributor, importer, or exporter of norfentanyl for the production of legitimate pharmaceutical fentanyl, if they exist at all, would incur costs. The primary costs associated with this rule include costs associated with complying with registration, physical security, labeling and packaging, quota, inventory, recordkeeping and reporting, and importation and exportation requirements. Other than the annual registration fees ($3,047 for manufacturers and $1,523 for distributors, importers, and exporters), due to the many unknowns and variability between entities, it is highly difficult to quantify the potential total cost burden of this regulation. However, any manufacturer that uses norfentanyl for legitimate pharmaceutical fentanyl production would already be registered with DEA and have all security and other handling processes in place, resulting in minimal cost. Any lost sales or profit attributed to those manufacturers or suppliers that are not for legitimate pharmaceutical fentanyl are excluded from the analysis as they are, whether passively or actively, facilitating the manufacture of illicit fentanyl.

The DEA has identified 30 domestic suppliers of norfentanyl, 29 of which are not registered with DEA to handle schedule II controlled substances. It is difficult to estimate how much norfentanyl is distributed by these suppliers. It is common for chemical distributors to have items on their catalog while not actually having any material level of sales. Based on the review of import and quota information for fentanyl and ANPP, where the quantities of ANPP imported and manufactured generally correspond with the quantities of fentanyl produced, DEA believes any quantity of sales from these distributors for the legitimate pharmaceutical fentanyl manufacturing is minimal. Suppliers for the legitimate use of norfentanyl are expected to choose the least-cost option, and stop selling the minimal quantities, if any, of norfentanyl, rather than incur the costs of complying with the regulatory requirements. Because DEA believes the quantities of norfentanyl supplied for the legitimate manufacturing of pharmaceutical fentanyl is minimal, DEA estimates that the cost of foregone sales is minimal; and thus, the cost of this rule is minimal.

This analysis excludes consideration of economic impact to those businesses that facilitate the manufacturing and distribution of norfentanyl for the manufacture of illicit fentanyl. The only use for norfentanyl of which DEA is currently aware is the manufacture of fentanyl. Although these suppliers are selling a currently unregulated substance, they wittingly or unwittingly facilitate the manufacturing of illicit fentanyl. As a law enforcement organization and as a matter of principle, DEA believes considering the economic utility of facilitating the manufacture of illicit fentanyl would be improper.

Benefits

Controlling norfentanyl is expected to prevent, curtail, and limit the unlawful manufacture and distribution of the controlled substance, fentanyl. This action is also expected to assist preventing the possible theft or diversion of norfentanyl from any legitimate firms. As a schedule II substance, norfentanyl will be safeguarded to the same degree that pharmaceutical firms now safeguard the fentanyl that they produce. The DEA also believes control is necessary to prevent unscrupulous chemists from synthesizing norfentanyl and selling it (as an unregulated material) through the internet and other channels, to individuals who may wish to acquire an unregulated precursor for the purpose of manufacturing illicit fentanyl.

In summary, DEA conducted a qualitative analysis of costs and benefits. DEA believes this action will minimize the diversion of norfentanyl. The DEA believes the market for norfentanyl for the legitimate manufacturing of pharmaceutical fentanyl is minimal. Therefore, any potential cost as a result of this regulation is minimal. Therefore, the estimated economic impact of this rule is less than $100 million in any given year.

Executive Order 12988, Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This rulemaking does not have federalism implications warranting the application of Executive Order 13132. The rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule does not have tribal implications warranting the application of Executive Order 13175. This rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Regulatory Flexibility Act

The Acting Administrator, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA), has reviewed this rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. As discussed above, the scheduling of norfentanyl as an immediate precursor of the schedule II controlled substance, fentanyl, subjects norfentanyl to all of the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, dispensing, importing, and exporting of a schedule II controlled substance. Norfentanyl is the immediate chemical intermediary in a synthesis process currently used by clandestine laboratory operators for the illicit manufacture of the schedule II controlled substance fentanyl. The distribution of illicitly manufactured fentanyl has caused an unprecedented outbreak of thousands of fentanyl-related overdoses in the United States in recent years.

The DEA has not identified any use for norfentanyl, other than its role as an intermediary chemical in the manufacture of fentanyl. Based on the review of import and quota information for ANPP and fentanyl, DEA believes the vast majority, if not all, of legitimate pharmaceutical fentanyl is produced from ANPP (schedule II immediate precursor for fentanyl), not norfentanyl. The quantities of ANPP permitted in the U.S., imported or manufactured pursuant to a quota, generally correspond with the quantities of

legitimate pharmaceutical fentanyl produced in the United States. Additionally, DEA is not aware of norfentanyl being used for the manufacturing of legitimate pharmaceutical fentanyl; however, DEA cannot rule out the possibility that minimal quantities of norfentanyl are used for this purpose. If there are any quantities of norfentanyl used for the manufacturing of legitimate pharmaceutical fentanyl, the quantities are believed to be small and economically insignificant.

The DEA has identified 30 domestic suppliers of norfentanyl. Based on the Small Business Administration size standard for chemical distributors and Statistics of United States Business data, 94.5 percent or 28.4 (rounded to 28) are estimated to be small entities. It is difficult to know how much norfentanyl is distributed by these suppliers. It is common for chemical distributors to have items on their catalog while not actually having any material level of sales. Based on the review of import and quota information for fentanyl and ANPP, where the quantities of ANPP imported and manufactured generally correspond with the quantities of fentanyl produced, DEA believes any quantity of sales from these distributors for the legitimate pharmaceutical fentanyl manufacturing is minimal. Therefore, DEA estimates the cost of this rule on any affected small entity is minimal.

Because of these facts, this rule will not result in a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

On the basis of information contained in the ''Regulatory Flexibility Act'' section above, DEA determined and certifies pursuant to the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq.,* that this action will not result in any Federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted for inflation) in any one year * * *.'' Therefore, neither a Small Government Agency Plan nor any other action is required under provisions of UMRA.

Paperwork Reduction Act

This action does not impose a new collection of information under the Paperwork Reduction Act, 44 U.S.C. 3501–3521. This action does not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

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, DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. Amend § 1308.12 by adding paragraph (g)(3)(ii) to read as follows.

§ 1308.12 Schedule II.

* * * * *

(g) * * *

(3) * * *

(ii) *N*-phenyl-*N*-(piperidin-4-yl)propionamide (norfentanyl) 8366

* * * * *

Dated: March 5, 2020.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2020–07381 Filed 4–16–20; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2019–0083; FRL–10007–78–Region 7]

Air Plan Approval; Nebraska; Infrastructure SIP Requirements for the 2015 Ozone National Ambient Air Quality Standards (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve elements of a State Implementation Plan (SIP) submission from the State of Nebraska addressing the applicable requirements of the Clean Air Act (CAA) section 110 for the 2015 Ozone (O_3) National Ambient Air Quality Standards (NAAQS). Whenever the EPA promulgates a new or revised NAAQS, CAA section 110 requires that each State adopt and submit a SIP submission to establish that the State's SIP meets infrastructure requirements for the implementation, maintenance, and enforcement of each such new or revised NAAQS. These SIP submissions are commonly referred to as ''infrastructure'' SIPs. The infrastructure requirements are designed to ensure that the structural components of each State's air quality management program are adequate to meet the State's responsibilities under the CAA.

DATES: This final rule is effective on May 18, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2019–0083. 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, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Lachala Kemp, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7214; email address *kemp.lachala@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA.

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I. Background

On May 9, 2019, the EPA proposed to approve Nebraska's infrastructure SIP submission for the 2015 O_3 NAAQS in the **Federal Register**. 84 FR 20318 (May 9, 2019). The EPA solicited comments on the proposed approval of the infrastructure SIP submission and

received one set of comments that is addressed in this document.

II. What is the EPA addressing in this document?

The EPA is approving the infrastructure SIP submission received from the State of Nebraska on September 24, 2018. Specifically, the EPA is approving the following infrastructure elements of section 110(a)(2): (A) Through (C)(the permitting portion relevant to Part C), (D)(i)(I)—prongs 1 and 2, (D)(i)(II)—prong 3, (D)(ii), (E) through (H), and (J) through (M).

A Technical Support Document (TSD) in the docket provides additional details of this action, including an analysis of how the infrastructure SIP submission meets the applicable 110(a)(1) and (2) requirements for infrastructure SIPs. The EPA plans to take separate action on the infrastructure elements under section 110(a)(2)(D)(i)(II)—prong 4. The EPA is not addressing section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions under Part D, as it is the EPA's interpretation of the CAA that these elements do not need to be addressed in the context of an infrastructure SIP submission.

III. Has the State met the requirements for approval of the infrastructure SIP submission?

The State met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The EPA determined that the submission satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided a public comment period for this SIP revision from August 7, 2018 to September 7, 2018, and at the same time, offered an opportunity for a public hearing. The State received no comments and no requests for a public hearing. In addition, as explained in more detail in the TSD, the infrastructure SIP submission meets the substantive requirements of the CAA for SIP submissions, including section 110 and implementing regulations.

IV. What is the EPA's response to comments?

The public comment period on the EPA's proposed rule opened May 9, 2019, the date of its publication in the **Federal Register** and closed on June 10, 2019. During this period, the EPA received one comment which consisted of several observations as summarized below.

Comment 1: The EPA states in the TSD that Nebraska's minor source new source review (NSR) program does not meet the requirements of CAA section 110(a)(2)(C) and therefore the EPA must make the State correct the deficiency or make a finding under CAA section 110(k).

Response 1: The EPA's review of a State's infrastructure SIP submission focuses on assuring that the State's SIP meets basic structural requirements. Section 110(a)(2)(C) includes, inter alia, the requirement that States have a program to regulate minor new sources. The EPA evaluates whether the State has an EPA-approved minor NSR program and whether the program addresses the pollutants relevant to that NAAQS. As discussed in the TSD, the EPA approved Nebraska's minor NSR program into the SIP in 1972 and 1995. *See* 37 FR 10842 (May 31, 1972) and 60 FR 372 (January 4, 1995).

Notwithstanding the EPA statement from the TSD referenced by the commenter, the EPA does not currently see a deficiency in the Nebraska minor NSR program that warrants a disapproval of the infrastructure SIP submission with respect to section 110(a)(2)(C) or a finding under section 110(k) of the Act. In the TSD, the EPA stated that that Nebraska's minor NSR program adequately regulates construction and modification of stationary sources to protect the 2015 O_3 NAAQS. While the EPA also said that Nebraska's minor NSR program ''likely does not meet'' all the requirements found in the EPA's regulations implementing that provision, this was not intended as a definitive determination that Nebraska's program did not in fact meet all requirements of the implementing regulations of 40 CFR 51.160 through 51.164. This statement was made in error and was not the result of a comprehensive review of Nebraska's minor source NSR program, and the EPA did not identify a specific deficiency in Nebraska's minor source NSR program. The commenter does not identify a specific deficiency with the Nebraska regulations or any intervening change in the EPA regulations that Nebraska has failed to address with respect to its minor NSR program.

Nebraska has an approved minor NSR program that addresses the relevant pollutants. After further review of this issue, the EPA reaffirms its position that the State's minor source NSR program adequately regulates the construction and modification of stationary sources to protect the 2015 O_3 NAAQS. Because the EPA has determined that Nebraska's minor NSR program is not deficient, the EPA is not disapproving the SIP submission with respect to CAA section 110(a)(2)(C) and is not compelled to issue a finding under CAA section 110(k).

Comment 2: Nebraska failed to assure that the appropriate modeling is being performed through the State's PSD and NSR permitting programs, as chapter 19, section 001 of Nebraska's regulations does not appear to allow for incorporation by reference on an ongoing basis. The EPA must demonstrate that Nebraska is able to incorporate 40 CFR part 51, appendix W modeling guidelines on an ongoing basis. In addition, for the reasons listed above, the State fails to meet CAA 110(a)(2)(k).

Response 2: Appendix W was revised in 2017, and the EPA required States to integrate the revisions to 40 CFR part 51, appendix W, into regulatory processes and require applicants to follow the revisions by no later than January 17, 2018. 82 FR 5182 (January 17, 2017).

The EPA has reviewed the title 129, chapter 19, section 001 of the Nebraska Administrative Code and has determined that this State rule neither applies to nor limits the incorporation by reference of 40 CFR part 51, appendix W, as it does not pertain to appendix W. As stated in the TSD, Nebraska's authority to require or perform air quality modeling for PSD construction permitting is in the SIP-approved State regulations at title 129, chapter 19, section 019, which requires air quality modeling to be based on the applicable models, data bases, and other requirements specified in 40 CFR part 51, appendix W (Guideline on Air Quality Models). Title 129, chapter 19, section 019 does not contain an incorporation by reference date.

To the extent the commenter is concerned that title 129, chapter 019, section 019.01 adopts an older version of appendix W and that the State therefore lacks the requisite authority to use the 2017 revision to appendix W in PSD modeling, title 129, chapter 19, section 019.02 provides a process for modification or substitution with another model where an air quality model specified in 40 CFR part 51, appendix W, is inappropriate, and includes provisions for public comment concerning the modified or substituted model. The EPA interprets this provision to allow for Nebraska and it's sources to use updated appendix W models reflected in the most recent version of appendix W even if the undated reference in appendix W in title 129, chapter 19, section 019.02 could be interpreted to adopt a previous version of appendix W. These provisions are thus adequate to meet PSD and NSR requirements under section 110(a)(2)(C) and contribute to satisfying section 110(a)(2)(K).

With respect to CAA section 110(a)(2)(K) more generally, the EPA explained in its TSD that Neb. Rev. Stat. section 81–1504(5) provides Nebraska with the authority to encourage, participate in, or conduct studies, investigations, research and demonstrations relating to air pollution and its causes and effects. This statute is interpreted by the EPA to give Nebraska broad authority to conduct air quality modeling to predict the effect on ambient air quality of any emission of any air pollutant for which a NAAQS has been promulgated. Nebraska's September 24, 2018 infrastructure SIP submission also references Neb. Rev. Stat. section 81–1527, which provides for public inspection of information furnished to or obtained by Nebraska related to air sources, including emissions data. Thus, considering this statutory authority and the Nebraska regulations described above, the EPA finds that Nebraska's SIP has the authority to provide air quality modelling data to the EPA upon request. For these reasons, the EPA finds that Nebraska's SIP satisfies the requirements of CAA section 110(a)(2)(K).

Comment 3: Nebraska failed to identify ammonia as a precursor to Particulate Matter (PM) in its NSR and PSD permitting program. Because of this, the State fails to meet elements C, D and J (CAA sections 110(a)(2)(C), (D), and (J)).

Response 3: The EPA interprets the commenter's reference to Particulate Matter as Particulate Matter less than 2.5 microns in diameter ($PM_{2.5}$) in accordance with the precursor language in the definition of ''regulated NSR pollutant'' in 40 CFR 51.166(b)(49). Nebraska's PSD regulations at title 129, chapter 19, section 010 define the appropriate precursors for all NSR pollutants and mirror the EPA's definitions in 40 CFR 51.166(b)(49). In that provision, the EPA regulations define ''regulated NSR pollutant'' for purposes of the PSD permitting requirements to include precursors specifically identified by the Administrator in that paragraph. The provisions indicate that sulfur dioxide is a precursor to $PM_{2.5}$, that nitrogen oxides are presumptively a precursor to $PM_{2.5}$ (unless a demonstration is made to the contrary), and that volatile organic compounds are presumptively *not* a precursor to $PM_{2.5}$ (unless a demonstration is made to the contrary). The provision does not identify ammonia as a precursor to $PM_{2.5}$ for purposes of the PSD permitting requirements, and thus Nebraska was not required to identify ammonia as a $PM_{2.5}$ precursor in its SIP for purposes of satisfying the requirement to have an adequate PSD permitting program under CAA section 110(a)(2)(C), (D)(i)(II), or (J).

To the extent the commenter suggests that the State's nonattainment NSR permitting program should regulate ammonia as a $PM_{2.5}$ precursor, the EPA interprets the portion of CAA section 110(a)(2)(C) that pertains to a permitting program that applies to nonattainment NSR within nonattainment areas is outside of the scope of this infrastructure SIP action. Because CAA section 110(a)(2)(C) refers to permit programs for purposes of nonattainment NSR under part D of the CAA that a State is required to submit to the EPA on a schedule that is separate from what is required for infrastructure SIP submissions, the State is not required to address nonattainment NSR requirements in the infrastructure SIP submission. In addition, as explained in the TSD, there are currently no nonattainment areas in the State of Nebraska, and thus, Nebraska is not at this time required to have an approved nonattainment NSR program addressing $PM_{2.5}$.

Accordingly, the EPA finds that Nebraska's 2015 O_3 NAAQS Infrastructure SIP submission meets the requirements of CAA sections 110(a)(2)(C), (D), and (J) as it is not required to identify ammonia as a precursor to $PM_{2.5}$ in its PSD permitting program and any purported deficiencies related to the State's nonattainment NSR permitting program are outside of the scope of this action.

Comment 4: In the TSD, the EPA discusses CAA 110(a)(2)(D)(ii) in its approval of CAA 110(a)(2)(D)(i)(I) prongs 1 and 2 and CAA 110(a)(2)(D)(i)(II) prong 3, but it is not clear if 110(a)(2)(D)(ii) is the basis for approval of those prongs.

Response 4: The TSD contains the EPA's analysis of whether the State meets the separate requirements found in CAA section 110(a)(2)(D)(i)(I) (prongs 1 and 2), and CAA section 110(a)(2)(D)(i)(II) (prong 3), as well as CAA section 110(a)(2)(D)(ii). Because the EPA did not reference CAA section 110(a)(2)(D)(ii) in its approval of CAA section 110(a)(2)(D)(i)(I) prongs 1 and 2 and CAA section 110(a)(2)(D)(i)(II) prong 3, the EPA is unable to determine the commenter's concern with the EPA's approval of these elements.

Comment 5: The EPA should make periodic reviews of Nebraska's Air Quality program publicly available in order for the public to determine if Nebraska has adequate resources and personnel. The EPA should re-propose approval of the Infrastructure SIP and should clearly state whether it has found that Nebraska has adequate funding to support the State's permitting programs in accordance with CAA section 110(a)(2)(L).

Response 5: The EPA's statement that it conducts periodic reviews of Nebraska's Air Quality Program was made in the section of the TSD that contained an analysis of whether Nebraska meets the requirements of CAA section 110(a)(2)(E). The basis for the EPA's approval of Nebraska's provisions for meeting the requirements of CAA section 110(a)(2)(E) are fully articulated in the TSD, and the statement concerning periodic reviews of Nebraska's Air Quality Program was informational in nature and did not serve as a basis for approval of Nebraska's provisions that meet the requirements of CAA section 110(a)(2)(E). As discussed in the TSD, the State has adopted requirements for sources to pay fees sufficient to pay the reasonable direct and indirect costs of developing and administering the air quality operating permit program. These costs include overhead charges for personnel, equipment, buildings and vehicles; enforcement costs; costs of emissions and ambient monitoring; and modeling analyses and demonstrations. The EPA therefore finds that Nebraska has adequate personnel, funding, and authority to carry out the state implementation plan with respect to the relevant NAAQS in accordance with CAA section 110(a)(2)(E).

Concerning the EPA's analysis of whether Nebraska has adequate infrastructure and adequate funding to address CAA section 110(a)(2)(L), the EPA addressed the adequacy of Nebraska's Title V fee program, which was approved by the EPA on October 18, 1995. *See* 60 FR 53872 (October 18, 1995). Nebraska included its environmental agency's 2017 Annual Report to the Legislature with its September 24, 2018 infrastructure SIP submission for the 2015 O_3 NAAQS, which is available in the docket. The Annual Report details how emission fees are established in order to provide the minimum amount to pay the direct and indirect costs of developing and administering the air quality permit program, which includes an analysis of whether the fees support administration of the program.

Because the EPA articulated its proposed finding in the TSD based on information that was available in the docket during the public comment period, the EPA disagrees with the commenter that it must re-propose approval for its finding that Nebraska

has the adequate infrastructure to satisfy CAA section 110(a)(2)(L).

V. What action is the EPA taking?

The EPA is approving elements of the September 24, 2018, infrastructure SIP submission from the State of Nebraska, which address the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2015 O_3 NAAQS. Specifically, the EPA is approving the following infrastructure elements of 110(a)(2): (A) through (C) (the part C permitting portion), (D)(i)(I)–(prongs 1 and 2), (D)(i)(II)—(prong 3), (D)(ii), (E) through (H), and (J) through (M). As explained in the TSD, the EPA intends to act on section 110(a)(2)(D)(i)(II)—prong 4, in a subsequent rulemaking. The EPA is not addressing section 110(a)(2)(I)–Nonattainment Area Plan or Plan Revisions under part D, as it is the EPA's interpretation of the CAA that these elements do not need to be addressed in the context of an infrastructure SIP submission.

Based upon review of the State's infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in those submissions or referenced in Nebraska's SIP, the EPA finds that Nebraska's SIP meets all applicable required elements of sections 110(a)(1) and (2) (except as otherwise noted) with respect to the 2015 O_3 NAAQS.

VI. Statutory and Executive Order Reviews

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

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

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 16, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: April 3, 2020.

Edward Chu,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart CC—Nebraska

■ 2. In § 52.1420, the table in paragraph (e) is amended by adding entry ''(35)'' in numerical order to read as follows:

§ 52.1420 Identification of plan.

* * * * *

(e)* * *

EPA-APPROVED NEBRASKA NONREGULATORY PROVISIONS

Name of non-regulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	* * *
(35) Sections 110 (a)(1) and (2) Infrastructure Requirements for the 2015 O_3 NAAQS.	Statewide	9/24/2018	4/17/2020, [insert **Federal Register** citation].	This action approves for the O_3 NAAQS: The following CAA elements: 110(a)(1) and (2): (A) through (C), (D)(i)(I)—prongs 1 and 2, (D)(i)(II)—prong 3, (D)(ii), (E) through (H), and (J) through (M). EPA–R07–OAR–2019–0083; FRL–10007–78–Region 7.
*	*	*	*	* * *

[FR Doc. 2020–07477 Filed 4–16–20; 8:45 a.m.]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA–R07–OAR–2019–0532; FRL–10007–72–Region 7]

Air Plan Approval; Iowa, Kansas, Missouri, Nebraska and Approval of Operating Permit Program for Iowa and Nebraska; Definition of Chemical Process Plants Under State Prevention of Significant Deterioration Regulations and Operating Permit Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plans (SIPs) for Iowa, Kansas, Missouri and Nebraska and is also approving revisions to the Operating Permit Programs for Iowa and Nebraska. The SIP revisions incorporate changes to the definition of chemical process plants under the States' Prevention of Significant Deterioration (PSD) regulations and change the same definition in the approved State operating permit programs. Consistent with an EPA regulation finalized in 2007, this action approves several State rules that modify the definition of chemical process plant to exclude ethanol manufacturing facilities that produce ethanol by natural fermentation processes. Approving these modified definitions into the SIP establishes that the PSD major source applicability threshold in the SIPs for these ethanol plants is 250 tons per year (tpy) (rather than 100 tpy) and removes the requirement to include fugitive emissions when determining if the source is major for PSD. In addition, this action approves changes to the Iowa and Nebraska Title V operating permit programs that remove the requirement to include fugitive emissions when determining if a source is major for Title V purposes. The EPA concludes that the changes to the State rules described herein are approvable because they are consistent with EPA regulations governing State PSD and Title V programs and will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171 of the Clean Air Act (CAA)), or any other applicable requirement of the CAA.

DATES: This final rule is effective on May 18, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2019–0532. 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, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: William Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7714; email address *stone.william@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA.

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VI. Statutory and Executive Order Reviews

I. What is being addressed in this document?

The EPA is approving revisions to SIPs received by EPA from Iowa on November 15, 2007, Kansas on November 23, 2009, Missouri on December 7, 2009, and March 20, 2019, and Nebraska on August 28, 2007, and September 11, 2018. The EPA is also approving revisions to the Iowa and Nebraska Operating Permit Programs. These revisions conform the State rules to changes to EPA regulations reflected in the EPA's final rule entitled ''Prevention of Significant Deterioration, Nonattainment New Source Review (NA NSR), and Title V: Treatment of Certain Ethanol Production Facilities Under the 'Major Emitting Facility' Definition'' (hereinafter referred to as the ''2007 Ethanol Rule'') as published in the **Federal Register** on May 1, 2007 (72 FR 24059). The 2007 Ethanol Rule amended the PSD definition of ''major stationary source'' to exclude certain ethanol facilities from the ''chemical process plant'' source category and clarified that the PSD major source applicability threshold for certain ethanol plants is 250 tpy (rather than 100 tpy). The 2007 Ethanol Rule also removed the requirement to include fugitive emissions when determining if the source is major for PSD and Title V permitting.

II. Have the requirements for approval of the SIP and Operating Permit Plan revisions been met?

All of the aforementioned regulations are consistent with EPA's PSD program requirements in 40 CFR 51.166 and Title V program requirements in 40 CFR part 70, as amended in the 2007 Ethanol Rule. Further, all submissions have met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102.

Iowa published a Notice of Intended Action in the Iowa Administrative Bulletin on August 1, 2007. A public hearing was held on September 5, 2007. The public comment period closed on September 6, 2007. Iowa received six

sets of written comments during the public comment period. Iowa provided a response to each public comment but did not change the rule based on the comments.

Kansas published the proposed changes in the Kansas Register May 21, 2009. A public hearing was held on July 29, 2009. Kansas received three comment letters. Only one change was made to the proposed regulations based on public comments and that change was not relevant to this action.

Missouri published the proposed changes in the Missouri Register on December 31, 2008. A public hearing was held on February 3, 2009. Missouri received fifteen comments and made changes to the proposed regulations that were not relevant to this action. Missouri made additional changes to the regulations proposed to be approved by the EPA in this action that were published in the Missouri Register on August 1, 2018. Missouri received thirty-seven comments from nine sources including the EPA. Missouri made some changes to the proposed regulations that are relevant to this action based on comments received during the public comment period.

Nebraska published the proposed changes in the Omaha World-Herald on July 13, 2007. A public hearing was held on August 17, 2007. Nebraska did not receive any adverse comments for the proposed changes.

The SIP submissions also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, these revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations. These revisions are also consistent with applicable EPA requirements of Title V of the CAA and 40 CFR part 70.

III. The EPA's Response to Comments

The public comment period on the EPA's proposed rule was open from November 12, 2019 through December 12, 2019 (84 FR 60968, November 12, 2019). During this period, EPA received two comments.

Comment 1: The commenter states that the proposed rule should not be approved because it will release more harmful chemicals into the air that will negatively impact climate change.

Response 1: The technical support documents (TSDs) that are available in the docket for the proposed rule explain EPA's reasoning that emissions increases associated with the proposed action are not expected to occur. The States affected by this rulemaking have already implemented the 2007 ethanol rule, and ethanol production has increased while air quality has improved for every pollutant monitored in each of the States.

The TSDs also analyze the impact of increasing the threshold to 250 tpy on ozone and particulate matter (PM) precursors in each State. The analysis for ozone and secondary PM demonstrates that sources of this size will not cause any interference with attainment or maintenance of the standards in these States.

The EPA also describes requirements for each State's minor source NSR program because the facilities that would be below the 250 tpy PSD major source threshold under this rulemaking will still need to obtain minor source construction permits. The States are prohibited from issuing minor source NSR permits that would lead to a violation of the NAAQS. Additionally, Federal rules such as New Source Performance Standards and Maximum Achievable Control Technology regulations will control emissions of pollutants that ethanol plants could emit regardless of the major source status under PSD.

In addition, this action does not alter the regulation of greenhouse gas (GHG) emissions, which is a driver of climate change. Under the CAA, its implementing regulations, and the States' air regulations, GHG emissions from ethanol plants could increase regardless of whether the proposed changes to the SIP and Title V Operating permit programs are approved. Thus this action does not increase the allowable emissions of GHGs or change how GHGs are regulated by EPA and each State.

Comment 2: The commenter requests that EPA make corrections to the revisions to the table in 40 CFR 52.820 in order to clarify the provisions of 567 Iowa Administrative Code rule 33.3 that are approved into the SIP, and those that have not been submitted to the EPA for approval into the SIP.

Response 2: We have made the suggested corrections to the table in this final rule document in order to correct typographical errors in previous versions of the table to 40 CFR 52.820. Specifically, in the explanation column of the table for the EPA-Approved Iowa Regulations, instead of stating that the provisions of the 2010 $PM_{2.5}$ PSD-increments SILS and SMCs rule, published in the on October 20, 2010, relating to SILs and SMCs that were affected by the January 22, 2013, U.S. Court of Appeals decisions are not SIP approved, we have revised the table to state that these provisions are not, at the State's request, included in Iowa's SIP provisions March 14, 2014.

Also, in the same portion of that table we have removed the following sentence: ''Iowa's rule incorporating EPA's 2008 'fugitive emissions rule' (published in the **Federal Register** on December 19, 2008) is not SIP-approved.'' That sentence was erroneous because Iowa's SIP approved rule does not include the ''fugitive emissions rule''.

IV. What actions are the EPA taking?

The EPA is approving revisions to the Iowa, Kansas, Missouri and Nebraska SIPs and the Iowa and Nebraska Operating Permit Programs. We are taking final action after consideration of the two comments received on the notice of proposed rulemaking.

The revisions to State rules that EPA is approving change the definition of ''major stationary source'' under the States' PSD regulations and the Operating Permit Program for Iowa and Nebraska. This action approves changes to state regulations, which make clear that the PSD applicability threshold for certain ethanol plants is 250 tpy and remove the requirement to include fugitive emissions when determining if an ethanol plant is major for PSD and, in Iowa and Nebraska, Title V permitting. The EPA has determined that these revisions are consistent with EPA's PSD and Title V regulations and that approval of these revisions is consistent with the requirements of CAA section 110(l) and will not adversely impact air quality. The EPA's analysis is available in the technical support documents that were prepared for each State SIP and are in the docket for this action. Approval of the revisions to these SIPs will ensure consistency between the State and federally-approved rules and ensure Federal enforceability of the State's revised air program rules.

V. 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 the Iowa, Kansas, Missouri, and Nebraska Regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

These materials have been approved by the EPA for inclusion in the SIPs and

have been incorporated by reference by EPA into those plans. Therefore, they are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of of the EPA's final approval (*i.e.* the effective date of this action). They will also will be incorporated by reference in the next update to the SIP compilation.[1]

VI. Statutory and Executive Order Reviews

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

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

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).

List of Subjects

40 CFR Part 52

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

40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: April 3, 2020.

Edward Chu,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA amends 40 CFR parts 52 and 70 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart Q—Iowa

■ 2. In § 52.820, the table in paragraph (c) is amended by revising the entry ''567–33.3'' to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
*	*	*	*	* * *
Chapter 33—Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality				
*	*	*	*	* * *
567–33.3	Special Construction Permit Requirements for Major Stationary Sources in Areas Designated Attainment or Unclassified (PSD).	4/18/2018	4/17/2020, [insert **Federal Register** citation].	Provisions of the 2010 $PM_{2.5}$ PSD—Increments, SILs and SMCs rule, published in the **Federal Register** on October 20, 2010, relating to SILs and SMCs that were affected by the January 22, 2013, U.S. Court of Appeals decision are not, at the state's request, included in Iowa's SIP provisions (see **Federal Register**, March 14, 2014) (Vol. 79, No. 50).
*	*	*	*	* * *

[1] 62 FR 27968 (May 22, 1997).

* * * * *

Subpart R—Kansas

■ 3. In § 52.870, the table in paragraph (c) is amended by revising the entry ''K.A.R. 28–19–350'' to read as follows:

§ 52.870 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED KANSAS REGULATIONS

Kansas citation	Title	State effective date	EPA approval date	Explanation
Kansas Department of Health and Environment Ambient Air Quality Standards and Air Pollution Control				
*	*	*	*	*
Construction Permits And Approvals				
*	*	*	*	*
K.A.R. 28–19–350	Prevention of Significant Deterioration (PSD) of Air Quality.	12/28/2012	4/17/2020, [insert **Federal Register** citation].	Provisions of the 2010 $PM_{2.5}$ PSD-Increments, SILs and SMCs rule relating to SILs and SMCs that were affected by the January 22, 2013, U.S. Court of Appeals decision are not SIP approved. Provisions of the 2002 NSR reform rule relating to the Clean Unit Exemption, Pollution Control Projects, and exemption from recordkeeping provisions for certain sources using the actual-to-projected-actual emissions projections test are not SIP approved. In addition, we have not approved Kansas rule incorporating EPA's 2008 ''fugitive emissions rule'' (published in the **Federal Register** on December 19, 2008).
*	*	*	*	*

* * * * *

Subpart AA—Missouri

■ 4. In § 52.1320, the table in paragraph (c) is amended by revising the entry ''10–6.060'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.060	Construction Permits Required.	3/30/2019	4/17/2020, [insert **Federal Register** citation].	Provisions of the 2010 $PM_{2.5}$ PSD—Increments, SILs and SMCs rule relating to SILs and SMCs that were affected by the January 22, 2013 U.S. Court of Appeals decision are not SIP approved. Provisions of the 2002 NSR reform rule relating to the Clean Unit Exemption, Pollution Control Projects, and exemption from recordkeeping provisions for certain sources using the actual-to-projected-actual emissions projections test are not SIP approved. In addition, we have not approved Missouri's rule incorporating EPA's 2008 ''fugitive emissions rule'' (published in the **Federal Register** on December 19, 2008). Although exemptions previously listed in 10 CSR 10–6.060 have been transferred to 10 CSR 10–6.061, the federally-approved SIP continues to include the following exemption, ''Livestock and livestock handling systems from which the only potential contaminant is odorous gas.'' Section 9, pertaining to hazardous air pollutants, is not SIP approved.

EPA-APPROVED MISSOURI REGULATIONS—Continued

Missouri citation	Title	State effective date	EPA approval date	Explanation
				EPA previously approved the 3/30/2016 state effective date version of 10 CSR 10–6.060, with the above exceptions, in a **Federal Register** document published October 11, 2016. EPA is only approving section 7, subsection 7(A)(1), and section 8 from the 3/30/2019 State effective date version of 10 CSR 10–6.060. All remaining revisions to the 3/30/2019 version of 10 CSR 10–6.060 are not SIP approved.
*	*	*	*	*

* * * * *

Subpart CC—Nebraska

■ 5. In § 52.1420, the table in paragraph (c) is amended by revising the entry ''129–2'' to read as follows:

§ 52.1420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Explanation
STATE OF NEBRASKA Department of Environmental Quality Title 129—Nebraska Air Quality Regulations				
*	*	*	*	*
129–2	Definition of Major Source	2/6/2008	4/17/2020, [insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

PART 70—STATE OPERATING PERMIT PROGRAMS

■ 6. The authority citation for part 70 continues to read as follows:

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

■ 7. Appendix A to part 70 is amended by:

■ a. Adding paragraph (u) under ''*Iowa*''.

■ b. Adding paragraph (q) under ''*Nebraska; City of Omaha; Lincoln-Lancaster County Health Department*''.

The additions read as follows:

APPENDIX A TO PART 70—APPROVAL STATUS OF STATE AND LOCAL OPERATING PERMITS PROGRAMS

* * * * *

Iowa

* * * * *

(u) The Iowa Department of Natural Resources submitted revisions to Iowa Chapter 22.100 ''Definitions for Title V Operating Permits'' on November 15, 2007. The State revised the definition of ''Stationary source categories'' by revising the definition of ''Chemical process plants'' such that fugitive emissions from certain ethanol production facilities are not considered in determining whether the facility is subject to Title V permitting. The state effective date is October 4, 2007. This revision is effective May 18, 2020.

* * * * *

Nebraska; City of Omaha; Lincoln-Lancaster County Health Department

* * * * *

(q) The Nebraska Department of Environmental Quality submitted revisions to the Nebraska Administrative Code, Title 129, chapter 2, section 002.20 on November 19, 2010. Chapter 2, section 002.20 was revised to exclude ethanol production facilities from the definition of ''chemical process plants'' such that fugitive emissions are not considered in determining whether the facility is subject to Title V permitting. The state effective date is February 6, 2008.

This revision is effective May 18, 2020.

* * * * *

[FR Doc. 2020–07476 Filed 4–16–20; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 85, No. 75
Friday, April 17, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0332; Product Identifier 2020–NM–037–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus 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 a report that cracks were detected on the left-hand (LH) and right-hand (RH) sides of the first rivet hole of the frame (FR) 43 foot coupling during scheduled maintenance. This proposed AD would require a rotating probe test of the fastener holes at FR43 on the LH and RH sides for any cracking, 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 June 1, 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–2020–0332.

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–2020–0332; 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–2020–0332; Product Identifier 2020–NM–037–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 2020–0037, dated February 27, 2020; corrected February 28, 2020 (''EASA AD 2020–0037'') (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; 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; this AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by a report that cracks were detected on the LH and RH sides of the first rivet hole of the FR 43 foot coupling during scheduled maintenance. The FAA is proposing this AD to address cracking in the foot coupling, which could affect the structural integrity of the airplane. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0037 describes procedures for a rotating probe test (special detailed inspection) of the fastener holes at FR43 on the LH and RH sides for any cracking, and on-condition actions including a high frequency eddy current (rototest) inspection for cracks of the affected fastener holes, modification, and 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 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 2020–0037 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 2020–0037 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0037 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 2020–0037 that is required for compliance with EASA AD 2020–0037 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0332 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 867 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
9 work-hours × $85 per hour = $765	$0	$765	$663,255

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
22 work-hours × $85 per hour = $1,870	$338	$2,208

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–2020–0332; Product Identifier 2020–NM–037–AD.

(a) Comments Due Date

The FAA must receive comments by June 1, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model 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 2020–0037, dated February 27, 2020; corrected February 28, 2020 (''EASA AD 2020–0037'').

(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 proposed AD was prompted by a report that cracks were detected on the left- and right-hand sides of the first rivet hole of the frame (FR) 43 foot coupling during scheduled maintenance. The FAA is proposing this AD to address cracking in the foot coupling, which could affect the 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 2020–0037.

(h) Exceptions to EASA AD 2020–0037

(1) Where EASA AD 2020–0037 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0037 does not apply to this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2020–0037 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) 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 (k)(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 2020–0037 that contains RC procedures and tests: Except as required by paragraph (j)(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.

(k) Related Information

(1) For information about EASA AD 2020–0037, 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–2020–0332.

(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 10, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–08074 Filed 4–16–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0222; Project Identifier AD–2019–00116–E]

RIN 2120–AA64

Airworthiness Directives; Continental Aerospace Technologies, Inc. (Type Certificate Previously Held by Continental Motors, Inc.) Reciprocating 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 Continental Aerospace Technologies, Inc. model GTSIO–520–C, GTSIO–520–D, GTSIO–520–H, GTSIO–520–K, GTSIO–520–L, GTSIO–520–M, GTSIO–520–N, IO–550–G, IO–550–N, IO–550–P, IO–550–R, IOF–550–N, IOF–550–P, IOF–550–R, TSIO–520–BE, TSIO–550–A, TSIO–550–B, TSIO–550–C, TSIO–550–E, TSIO–550–G, TSIO–550–K, TSIO–550–N, TSIOF–550–D, TSIOF–550–J, TSIOF–550–K, and TSIOF–550–P reciprocating aviation gasoline (AvGas) engines with a certain cross-flow cylinder assembly installed. This proposed AD was prompted by reports of in-flight engine failures due to fractured cross-flow cylinder assemblies. This proposed AD would require visual inspection and, depending on the results of the inspection, modification or replacement of the cross-flow cylinder assembly. 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 June 1, 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 Continental Aerospace Technologies, Inc., 2039

South Broad Street, Mobile, Alabama 36615, United States; phone: 251–436–8299; website: *http://www.continentalmotors.aero.* 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–2020–0222; 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: Boyce Jones, Aerospace Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; phone: 404–474–5535; fax: 404–474–5606; email: *boyce.jones@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–2020–0222; Project Identifier AD–2019–00116–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 Boyce Jones, Aerospace Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, Georgia 30337. 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 of six in-flight engine failures due to fractured cross-flow cylinder assemblies, all of which resulted in the loss of oil pressure, loss of engine power, and forced landings. Analysis by the manufacturer identified that the casting vendor incorporated a new production tooling that created casting material build-up on the radius edge of the cross-flow cylinder assemblies. Fracture initiation began at the radius edge of cross-flow cylinder assembly. This condition, if not addressed, could result in failure of the engine, in-flight shutdown, and forced landing.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Continental Aerospace Technologies, Inc. Mandatory Service Bulletin (MSB) 18–08, Revision B, dated January 13, 2020. The MSB describes procedures for inspection, modification, or replacement of the cross-flow cylinder assembly. 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 it 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 visual inspection of the cross-flow cylinder assembly and, depending on the results of the visual inspection, modification or replacement of the cross-flow cylinder assembly.

Costs of Compliance

The FAA estimates that this proposed AD affects 4,000 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
Visual inspection of the cross-flow cylinder assembly.	2 work-hours × $85 per hour = $170	$0	$170	$680,000

The FAA estimates the following costs to do any necessary modification or replacement of the cross-flow cylinder assembly that would be required based on the results of the proposed visual inspection. The FAA has no way of determining the number of cross-flow cylinder assemblies that might need this modification or replacement.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Modify the cross-flow cylinder assembly	1 work-hour × $85 per hour = $85	$0	$85
Replace the cross-flow cylinder assembly	11.5 work-hours × $85 per hour = $977.50	1,933.28	2,910.78

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

Authority for This Rulemaking

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

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

Regulatory Findings

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):

Continental Aerospace Technologies, Inc. (Type Certificate previously held by Continental Motors, Inc.): Docket No. FAA–2020–0222; Project Identifier AD–2019–00116–E.

(a) Comments Due Date

The FAA must receive comments by June 1, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Continental Aerospace Technologies, Inc. (Type Certificate previously held by Continental Motors, Inc.) model GTSIO–520–C, GTSIO–520–D, GTSIO–520–H, GTSIO–520–K, GTSIO–520–L, GTSIO–520–M, GTSIO–520–N, IO–550–G, IO–550–N, IO–550–P, IO–550–R, IOF–550–N, IOF–550–P, IOF–550–R, TSIO–520–BE, TSIO–550–A, TSIO–550–B, TSIO–550–C, TSIO–550–E, TSIO–550–G, TSIO–550–K, TSIO–550–N, TSIOF–550–D, TSIOF–550–J, TSIOF–550–K, and TSIOF–550–P reciprocating aviation gasoline (AvGas) engines, originally manufactured, rebuilt, or modified with a cross-flow cylinder assembly replacement, on or after November 1, 2014, and with a cross-flow cylinder assembly, part number (P/N) 658538, 658540, 658542, 658591, 658595, 658613, 658624, 658539, 658541, 658590, 658594, 658603, 658623, or 658630, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 8530, Reciprocating Cylinder Section.

(e) Unsafe Condition

This AD was prompted by reports of in-flight engine failures due to fractured cross-flow cylinder assemblies. The FAA is issuing this AD to prevent failure of the engine. The unsafe condition, if not addressed, could result in failure of the engine, in-flight shutdown, and forced landing.

(f) Compliance

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

(g) Required Actions

(1) If the engine has fewer than 500 engine operating hours on the effective date of this AD, no later than the next scheduled 100-hour/annual inspection after the effective date of this AD, perform a visual inspection of the cross-flow cylinder assembly in accordance with paragraphs III.1 through III.3, Action Required, of Continental Aerospace Technologies, Inc. Mandatory Service Bulletin (MSB) 18–08, Revision B, dated January 13, 2020 (''Continental Aerospace Technologies MSB18–08B'').

(i) If the radius corner angle of the cross-flow cylinder assembly shows casting flash build-up or a sharp radius edge, modify the cross-flow cylinder assembly in accordance with paragraphs III.4 through III.8, Action Required, of Continental Aerospace Technologies MSB 18–08B; or

(ii) If a fissure, crack or physical damage is identified, remove the cross-flow cylinder assembly and replace with a part eligible for installation.

(2) If the engine has 500 engine operating hours or greater on the effective date of this AD, at the next maintenance event after the effective date of this AD, not to exceed 50 engine operating hours after the effective date of this AD, perform a visual inspection of the cross-flow cylinder assembly in accordance with paragraphs III.1 through III.3, Action Required, of Continental Aerospace Technologies MSB18–08B.

(i) If the radius corner angle of the cross-flow cylinder assembly shows casting flash build-up or a sharp radius edge, modify the cross-flow cylinder assembly in accordance with paragraphs III.4 through III.8, Action Required, of Continental Aerospace Technologies MSB 18–08B; or

(ii) If a fissure, crack or physical damage is identified, remove the cross-flow cylinder assembly and replace with a part eligible for installation.

(h) Installation Prohibition

After the effective date of this AD, do not install any cross-flow cylinder assembly having a P/N identified in paragraph (c) of this AD on any affected engine unless the cross-flow cylinder assembly has been visually inspected and modified in accordance with paragraph III, Action Required, of Continental Aerospace Technologies MSB18–08B.

(i) No Reporting Requirement

The reporting requirement in paragraph III, Action Required, of Continental Aerospace Technologies MSB18–08B is not required by this AD.

(j) Definition

(1) For the purpose of this AD, ''the next maintenance event'' is the next scheduled 100-hour/annual inspection, overhaul, or the next time the airplane enters maintenance for a non-engine issue, whichever occurs first.

(2) For the purpose of this AD, ''modify the cross-flow cylinder assembly'' is the removal of the casting material build-up by blending the cross-flow cylinder assembly radius corner.

(k) Credit for Previous Actions

You may take credit for the visual inspection and modification that is required by paragraph (g) of this AD, if the inspection or modification was performed before the effective date of this AD using Continental Motors Aircraft Engine Service Bulletin 18–08, Revision A, dated January 11, 2019.

(l) Alternative Methods of Compliance (AMOCs)

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

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

(m) Related Information

(1) For more information about this AD, contact Boyce Jones, Aerospace Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, Georgia 30337; phone: 404–474–5535; fax: 404–474–5606; email: *boyce.jones@faa.gov.*

(2) For service information identified in this AD, contact Continental Aerospace Technologies, Inc., 2039 South Broad Street, Mobile, Alabama, 36615, United States; phone: 251–436–8299; website: *http://www.continentalmotors.aero.* 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 14, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–08118 Filed 4–16–20; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 23, 43, 45, and 49

RIN 3038–AE32

Certain Swap Data Repository and Data Reporting Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Reopening of comment period.

SUMMARY: On May 13, 2019, the Commodity Futures Trading Commission (Commission) published in the **Federal Register** a notice of proposed rulemaking (NPRM) titled Certain Swap Data Repository and Data Reporting Requirements. The comment period for the NPRM was originally scheduled to close on July 29, 2019. The Commission subsequently extended the comment period for 90 days to October 28, 2019. On October 24, 2019, the Commission extended the comment period for another 90 days to January 27, 2020. The Commission is now reopening the comment period for this NPRM for an additional 90 days to allow market participants to comment on this NPRM in conjunction with the two swap data-related NPRMs approved on February 20, 2020.

DATES: The comment period for the proposed rule titled, Certain Swap Data Repository and Data Reporting Requirements, published on May 13, 2019 (84 FR 21044), is reopened. Comments must be received on or before May 20, 2020.

ADDRESSES: You may submit comments, identified by ''Certain Swap Data Repository and Data Reporting Requirements'' and RIN number 3038–AE32, by any of the following methods:

- *CFTC Comments Portal: https://comments.cftc.gov.* Select the ''Submit Comments'' link for this rulemaking and follow the instructions on the Public Comment Form.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Follow the same instructions as for mail, above.

Please submit your comments using only one of these methods. To avoid possible delays with mail or in-person deliveries, submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://comments.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://comments.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Benjamin DeMaria, Special Counsel, 202–418–5988, *bdemaria@cftc.gov* or Meghan Tente, Acting Associate Director, 202–418–5785, *mtente@cftc.gov;* Division of Market Oversight, Data and Reporting Branch, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION: On May 13, 2019, the Commission published in the **Federal Register** an NPRM proposing amendments to certain regulations applicable to swap data repositories (SDRs), reporting counterparties, and other market participants.[2] The proposed amendments would, among other things, update requirements for SDRs to verify swap data with reporting counterparties, update requirements to correct swap data errors and omissions, and update and clarify certain SDR operational and governance requirements.

The comment period for the NPRM was set to close on July 29, 2019. Market participants[3] requested the opportunity to review additional planned rulemakings under the Commission's Roadmap to Achieve High Quality

[1] 17 CFR 145.9.

[2] Certain Swap Data Repository and Data Reporting Requirements, 84 FR 21044 (May 13, 2019).

[3] *See* Letter from International Swaps and Derivatives Association and Securities Industry and Financial Markets Association (October 8, 2019), *available at https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=62212&SearchText=.*

Swaps Data (''Roadmap'')[4] that will relate to the NPRM prior to commenting on the NPRM. The Commission subsequently extended the comment period for the NPRM by 90 days to October 28, 2019,[5] and again by 90 days to January 27, 2020.[6]

The Commission stated in the October 24, 2019 extension that it anticipated reopening the comment period for the NPRM to coincide with the comment periods for the additional planned Roadmap rulemakings in order to provide market participants with the opportunity to comment on all three Roadmap rulemakings at once.[7] This reopening of the comment period provides the opportunity for market participants to comment on all three Roadmap rulemakings simultaneously or individually. Parties that previously submitted comments on the NPRM are invited to resubmit their comments to add any additional information they may wish to include.[8] Parties may also submit new comments regarding any matter related to the NPRM, including matters that relate to the NPRM and one or more of the other Roadmap rulemakings. All comments must be received on or before May 20, 2020.

Issued in Washington, DC, on February 27, 2020, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

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

[4] *See* CFTC Letter 17–33, Division of Market Oversight Announces Review of Swap Reporting Rules in Parts 43, 45, and 49 of Commission Regulations (July 10, 2017), *available at http://www.cftc.gov/idc/groups/public/@lrlettergeneral/documents/letter/17-33.pdf;* Roadmap to Achieve High Quality Swap Data, *available at http://www.cftc.gov/idc/groups/public/@newsroom/documents/file/dmo_swapdataplan071017.pdf.*

[5] Certain Swap Data Repository and Data Reporting Requirements; Extension of Comment Period, 84 FR 35847 (July 25, 2019).

[6] Certain Swap Data Repository and Data Reporting Requirements; Extension of Comment Period, 84 FR 57831 (October 24, 2019).

[7] *See* 84 FR at 57832; *see also* 84 FR at 21046 (''When the Commission proposes the next two rulemakings, the Commission anticipates reopening the comment period for this proposal to provide market participants with an opportunity to comment collectively on the three rulemakings together, because the proposals address interconnected issues.'').

[8] All responsive comments previously submitted for the NPRM will be considered regardless of whether the submitter updates the original comments during the reopened comment period. Parties that do not wish to supplement their original comments do not need to resubmit their original comments in order for those comments to be considered.

Appendix to Certain Swap Data Repository and Data Reporting Requirements—Commission Voting Summary

On this matter, Chairman Tarbert and Commissioners Quintenz, Behnam, Stump, and Berkovitz voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2020–04404 Filed 4–16–20; 8:45 am]

BILLING CODE 6351–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 30

[EPA–HQ–OA–2018–0259; FRL–10007–88–ORD]

RIN 2080–AA14

Strengthening Transparency in Regulatory Science

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking; extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for a notice issued in the **Federal Register** on March 18, 2020, supplemental notice of proposed rulemaking (SNPRM) titled ''Strengthening Transparency in Regulatory Science.'' This document is extending the comment period on this SNPRM from April 17, 2020, to May 18, 2020.

DATES: Comments must be received on or before May 18, 2020.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OA–2018–0259, by the following method:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.

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.

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: Cheryl A. Hawkins, Office of Science Advisor, Policy and Engagement (8104R), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–7307; email address: *osp_staff@epa.gov.*

SUPPLEMENTARY INFORMATION: On March 18, 2020, EPA published a supplemental notice of proposed rulemaking (SNPRM) titled ''Strengthening Transparency in Regulatory Science'' (85 FR 15396), which includes clarifications, modifications and additions to certain provisions in the Strengthening Transparency in Regulatory Science Proposed Rulemaking, published on April 30, 2018 (83 FR 18768). The SNPRM proposed that the scope of the rulemaking apply to influential scientific information as well as significant regulatory decisions. That notice proposed definitions and clarified that the proposed rulemaking would apply to data and models underlying both pivotal science and pivotal regulatory science. In the SNPRM, EPA also proposed a modified approach to the public availability provisions for data and models that would underly significant regulatory decisions and an alternate approach. Finally, EPA requested comment on whether to use its housekeeping authority independently or in conjunction with appropriate environmental statutory provisions as authority for the rulemaking.

This document extends the public comment period for the proposed rule to ensure that the public has sufficient time to review and comment on the proposal.

Dated: April 2, 2020.

Mary Ross,

Director, Office of Science Advisor, Policy and Engagement.

[FR Doc. 2020–07348 Filed 4–16–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2019–0623; FRL–10007–20-Region 8]

Approval and Promulgation of Implementation Plans; Wyoming; Regional Haze 5-Year Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a regional haze progress report State Implementation Plan (SIP) revision submitted by the State of Wyoming on November 28, 2017. The revision addresses the requirements for states to submit periodic reports describing progress toward reasonable progress goals established for regional haze and a determination of adequacy of the State's existing regional haze SIP and federal implementation plan (FIP). The regional haze progress report SIP revision also includes a revision to the Best Available Retrofit Technology (BART) requirements for Unit 3 at the Naughton Power Plant. The EPA acted on the BART revision for the Naughton Power Plant in a previous rulemaking and is not proposing to act on the BART revision in this rulemaking. The EPA is taking this action pursuant to section 110 of the Clean Air Act (CAA).

DATES: Written comments must be received on or before May 18, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2019–0623, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Division, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Jaslyn Dobrahner, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6252, *dobrahner.jaslyn@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. What action is the EPA proposing?

On November 28, 2017, Wyoming submitted a Progress Report SIP revision (Progress Report) which: (1) Detailed the progress made toward achieving progress for improving visibility at Class I areas,[1] and (2) declared a determination of adequacy of the State's regional haze plan to meet reasonable progress goals. The Progress Report also included a revision to the BART requirements for Unit 3 at the Naughton Power Plant. However, the EPA acted on the BART revision for the Naughton Power Plant in a previous rulemaking and is therefore not proposing to act on the BART revision in this rulemaking.[2] The State provided an opportunity for public comment through public hearings held on January 15, 2014 and September 26, 2017, and provided Federal Land Managers (FLMs) an opportunity to comment on the Progress Report.[3] The EPA is proposing to approve Wyoming's November 28, 2017 regional haze Progress Report SIP submittal.

II. Background

A. Requirements of the Clean Air Act and the EPA's Regional Haze Rule

In section 169A of the 1977 CAA Amendments, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes ''as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution.''

The EPA promulgated a rule to address regional haze on July 1, 1999.[4] The Regional Haze Rule revised the existing visibility regulations[5] to integrate provisions addressing regional haze and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 40 CFR 51.309, are included in the EPA's visibility protection regulations at 40 CFR 51.300 through 40 CFR 51.309. The EPA revised the Regional Haze Rule on January 10, 2017.[6]

The CAA requires each state to develop a SIP to meet various air quality requirements, including protection of visibility.[7] Regional haze SIPs must assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. A state must submit its SIP and SIP revisions to the EPA for approval. Once

[1] 42 U.S.C. 7491(a). Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas whose visibility they consider to be an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to ''mandatory Class I Federal areas.'' Each mandatory Class I Federal area is the responsibility of a ''Federal Land Manager.'' 42 U.S.C. 7602(i). When we use the term ''Class I area'' in this section, we mean a ''mandatory Class I Federal area.''

[2] 84 FR 10433 (March 21, 2019).

[3] Due to new permit requirements for Unit 3 at the Naughton Power Plant added to the Progress Report in early 2017, a second public comment period was provided.

[4] 64 FR 35714, 35714 (July 1, 1999) (codified at 40 CFR part 51, subpart P).

[5] The EPA had previously promulgated regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, *i.e.,* reasonably attributable visibility impairment (RAVI). 45 FR 80084, 80084 (December 2, 1980).

[6] 82 FR 3078 (January 10, 2017).

[7] 42 U.S.C. 7410(a), 7491, and 7492(a); CAA sections 110(a), 169A, and 169B.

approved, a SIP is enforceable by the EPA and citizens under the CAA. If a state elects not to make a required SIP submittal, fails to make a required SIP submittal, or if we find that a state's required submittal is incomplete or not approvable, then we must promulgate a FIP to fill this regulatory gap.[8]

B. Requirements for Regional Haze SIPs Submitted Under 40 CFR 51.309

The EPA's Regional Haze Rule provides two paths to address regional haze. One is 40 CFR 51.308, requiring states to perform individual point source BART determinations and evaluate the need for other control strategies. The other method for addressing regional haze is through 40 CFR 51.309, and is an option for states termed the ''Transport Region States'' including Wyoming. Transport Region States can adopt regional haze strategies based on recommendations from the Grand Canyon Visibility Transport Commission (GCVTC) for protecting the 16 Class I areas on the Colorado Plateau.[9] The GCVTC submitted an annex to the EPA, known as the SO_2 Backstop Trading Program, containing annual sulfur dioxide (SO_2) emissions reduction milestones and detailed provisions of a backstop trading program to be implemented automatically if measures failed to achieve the SO_2 milestones. Wyoming submitted a regional haze SIP under section 40 CFR 51.309 to address stationary source SO_2 emissions reductions through the SO_2 Backstop Trading Program and submitted a regional haze SIP under section 40 CFR 51.309(g) to address stationary source nitrogen oxide (NO_X) and particulate matter (PM) emissions reductions.

C. Requirements for the Five-Year Regional Haze Progress Report SIP

Under both 40 CFR 51.308 and 40 CFR 51.309, states are required to submit progress reports that evaluate progress towards the reasonable progress goals for each mandatory federal Class I area within the state and in each Class I area outside the state that may be affected by emissions from within the state. In addition, the provisions also require states to submit, at the same time as the progress report, a determination of adequacy of the state's existing regional haze plan. The first progress report must be in the form of a SIP revision and is due 5 years after submittal of the initial regional haze SIP.

As a Transport Region State, Wyoming submitted its Progress Report SIP under 40 CFR 51.309, and exercised the option to meet the requirements contained in 40 CFR 51.309 for regional haze implementation plans.[10] The requirements for Transport Region State progress reports are similar to those for other states, but the requirements for the reports are codified at 40 CFR 51.309(d)(10).

D. Regulatory and Legal History of the Wyoming Regional Haze SIP and FIP

On January 12, 2011, and April 19, 2012, Wyoming submitted regional haze SIP revisions addressing the requirements of 40 CFR 51.309 that superseded and replaced regional haze SIP revisions submitted on December 24, 2003, May 27, 2004 and November 21, 2008. On December 12, 2012, the EPA approved the SIP revisions as meeting the requirements of the Regional Haze Rule with the exception of 40 CFR 51.309(d)(4)(vii) and 40 CFR 51.309(g). On January 30, 2014, the EPA issued a final rule partially approving and partially disapproving the SIP revisions as meeting the requirements of 40 CFR 51.309(g), and promulgating a federal implementation plan (FIP) for those portions of the SIP that were disapproved (together referred to as the regional haze implementation plan).[11] Several parties challenged various aspects of the 2014 final rule pertaining to NO_X BART emission limits.[12] On September 9, 2014, the U.S. Court of Appeals for the Tenth Circuit stayed various NO_X BART emission limits.[13] Subsequent revisions were made to the regional haze SIP on March 21, 2019, and to the regional haze SIP and FIP on May 20, 2019.[14]

III. The EPA's Evaluation of Wyoming's Progress Report and Adequacy Determination

A. Regional Haze Progress Report

Wyoming's Progress Report must meet the requirements set forth in 40 CFR 51.309(d)(10)(i). Wyoming's Progress Report must also include a determination of the adequacy of the existing implementation plan to ensure reasonable progress. 40 CFR 51.309(d)(10)(ii).

1. Status of Implementation of Control Measures

Wyoming's Progress Report must include a description of the status of implementation of all control measures included in the implementation plans for achieving reasonable progress goals for Class I areas both within and outside of the State. 40 CFR 51.309(d)(10)(i)(A).

In its Progress Report, Wyoming summarized the regional haze measures that were relied upon in the regional haze implementation plan, as well as SO_2 emissions reduction strategies implemented by sources in New Mexico, Utah, and Wyoming under the SO_2 Backstop Trading Program. The State referenced the SO_2 emissions for sources associated with the SO_2 Backstop Trading Program[15] found within the 2011 Regional SO_2 Emissions and Milestones Report (Table 1).[16]

[8] 42 U.S.C. 7410(c)(1).

[9] The Colorado Plateau is a high, semi-arid tableland in southeast Utah, northern Arizona, northwest New Mexico, and western Colorado. The 16 mandatory Class I areas are: Grand Canyon National Park, Mount Baldy Wilderness, Petrified Forest National Park, Sycamore Canyon Wilderness, Black Canyon of the Gunnison National Park Wilderness, Flat Tops Wilderness, Maroon Bells Wilderness, Mesa Verde National Park, Weminuche Wilderness, West Elk Wilderness, San Pedro Park Wilderness, Arches National Park, Bryce Canyon National Park, Canyonlands National Park, Capital Reef National Park and Zion National Park.

[10] Wyoming Department of Environmental Quality, *Wyoming State Implementation Plan, 5-Year Progress Report.* (Wyoming Progress Report), Governor's letter. (November 17, 2017).

[11] 79 FR 5032 (January 30, 2014).

[12] Basin Electric, PacifiCorp, Powder River Basin Resource Council, National Parks Conservation Association, Sierra Club, and the State of Wyoming challenged various NO_X BART emission limits in the final rule. *Basin Electric Cooperative* v. *EPA,* No. 14–9533 (10th Cir.); *Wyoming* v. *EPA,* No. 14–9529 (10th Cir.); *PacifiCorp* v. *EPA,* No. 14.9534 (10th Cir.); *Powder River Basin Resource Council, et al.* v. *EPA,* No. 14–9530 (10th Cir.).

[13] *Wyoming* v. *EPA,* No. 14–9529, ECF No. 10204804.

[14] On March 21, 2019, the EPA approved a SIP revision to the BART requirements for Unit 3 at the Naughton Power Plant. 84 FR 10433 (March 21, 2019). On May 20, 2019, the EPA approved SIP revisions and revised the FIP to: (1) Modify the SO_2 emissions reporting requirements for Laramie River Station Units 1 and 2, (2) revise the NO_X emission limits for Laramie River Units 1, 2 and 3, and (3) establish an SO_2 emission limit averaged annually across both Laramie River Station Units 1 and 2. 84 FR 22711 (May 20, 2019).

[15] Wyoming Progress Report, pages 6, 10.

[16] Western Regional Air Partnership, *2011 Regional SO_2 Emissions and Milestone Report.* (February 20, 2013).

TABLE 1—REPORTED EMISSIONS FOR SOURCES ASSOCIATED WITH THE BACKSTOP TRADING PROGRAM [17]

State	Plant name	Reported 2011 SO_2 emissions (tons)
NM	Agave Energy Co./Agave Dagger Draw Gas Plant	0
NM	BP America Production/Empire Abo Plant	1,704
NM	DCP Midstream/Artesia Gas Plant	326
NM	DCP Midstream/Eunice Gas Plant	2,921
NM	DCP Midstream/Linam Ranch Gas Plant	1,304
NM	Duke—Magnum/Pan Energy—Burton Flats	0
NM	Duke Energy/Dagger Draw Gas Plant	0
NM	Targa Midstream Services, LP/Eunice Gas Plant	718
NM	Frontier Field Services/Maljamar Gas Plant	2,986
NM	Giant Industries/Ciniza Refinery (Gallup)	125
NM	J L Davis Gas Processing/Denton Plant	675
NM	Marathon Oil/Indian Basin Gas Plant	133
NM	Navajo Refining Co/Artesia Refinery	45
NM	Public Service Co of New Mexico/San Juan Generating Station	4,741
NM	Raton Pub. Service/Raton Power Plant	0
NM	Southern Union Gas/Jal #3	1,319
NM	Targa Midstream Services, LP/Eunice South Gas Plant	0
NM	Targa Midstream Services, LP/Monument Plant	771
NM	Targa Midstream Services, LP/Saunders Plant	251
NM	Tri-State Gen & Transmission/Escalante Station	1,257
NM	Western Gas Resources/San Juan River Gas Plant	621
NM	Western Refining Southwest Inc./Sand Juan Refinery (Bloomfield)	6
UT	Brigham Young University—Main Campus	99
UT	Chevron Products Co—Salt Lake Refinery	24
UT	Flying J Refinery—(Big West Oil Company)	192
UT	Graymont Western U.S. Inc—Cricket Mountain Plant	16
UT	Holcim—Devil's Slide Plant	344
UT	Holly Refining and Marketing Co—Phillips Refinery	131
UT	Intermountain Power Service Corporation—Intermountain Generating Station	4,934
UT	Kennecott Utah Copper Corp—Power Plant/Lab/Tailings Impoundment	1,704
UT	Kennecott Utah Copper Corp—Smelter and Refinery	696
UT	Materion Natural Resources—Delta Mill	0
UT	PacifiCorp—Carbon Power Plant	7,740
UT	PacifiCorp—Hunter Power Plant	4,661
UT	PacifiCorp—Huntington Power Plant	2,529
UT	Patara Midstream LLC—Lisbon Natural Gas Processing Plant	25
UT	Sunnyside Cogeneration Associates—Sunnyside Cogeneration Facility	544
UT	Tesoro West Coast—Salt Lake City Refinery	795
UT	Utelite Corporation—Shale Processing	130
WY	American Colloid Mineral Co—East Colony	63
WY	American Colloid Mineral Co—West Colony	50
WY	Basin Electric—Dry Fork Station	279
WY	Basin Electric—Laramie River Station	9,402
WY	Black Hills Corporation—Neil Simpson I	789
WY	Black Hills Corporation—Neil Simpson II	542
WY	Black Hills Corporation—Osage Plant	0
WY	Black Hills Corporation—Wygen I	559
WY	Cheyenne Light Fuel and Power Company—Wygen II	215
WY	Black Hills Corporation—Wygen III	256
WY	Burlington Resources—Bighorn Wells	223
WY	Burlington Resources—Lost Cabin Gas Plant	1,543
WY	Chevron USA—Carter Creek Gas Plant	100
WY	Chevron USA—Table Rock Field	0
WY	Chevron USA—Table Rock Gas Plant	44
WY	Chevron USA—Whitney Canyon/Carter Creek Wellfield	2
WY	Devon Energy Production Co., L.P.—Beaver Creek Gas Field	5
WY	Devon Gas Services, L.P.—Beaver Creek Gas Plant	158
WY	Encore Operating LP—Elk Basin Gas Plant	847
WY	Exxon Mobil Corporation—Labarge Black Canyon Facility	156
WY	Exxon Mobil Corporation—Shute Creek	946
WY	FMC Corp—Green River Sodium Products	2,876
WY	FMC Wyoming Corporation Granger Soda Ash Plant	189
WY	Frontier Oil & Refining Company—Cheyenne Refinery	253
WY	Hiland Partners, LLC—Hiland Gas Plant	45
WY	Marathon Oil Co—Oregon Basin Gas Plant	247
WY	Marathon Oil Co—Oregon Basin Wellfield	96
WY	Merit Energy Company—Brady Gas Plant	209
WY	Merit Energy Company—Whitney Facility	1
WY	Merit Energy Company—Whitney Canyon Wellfield	0
WY	Mountain Cement Company—Laramie Plant	283

TABLE 1—REPORTED EMISSIONS FOR SOURCES ASSOCIATED WITH THE BACKSTOP TRADING PROGRAM [17]—Continued

State	Plant name	Reported 2011 SO_2 emissions (tons)
WY	P4 Production, L.L.C.—Rock Springs Coal Calcining Plant	706
WY	PacifiCorp—Dave Johnston Plant	11,306
WY	PacifiCorp—Jim Bridger Plant	9,689
WY	PacifiCorp—Naughton Plant	20,461
WY	PacifiCorp—Wyodak Plant	2,387
WY	Simplot Phosphates LLC—Rock Springs Plant	1,502
WY	Sinclair Oil Company—Sinclair Refinery	505
WY	Sinclair Wyoming Refining Company—Casper Refinery	241
WY	Solvay Chemicals—Soda Ash Plant (Green River Facility)	46
WY	TATA Chemicals (Soda Ash Partners)—Green River Plant	5,098
WY	The Western Sugar Cooperative—Torrington Plant	182
WY	University of Wyoming—Heat Plant	187
WY	Wyoming Refining—Newcastle Refinery	324

Additionally, Wyoming provided the status of control measures associated with PM, NO_X, and SO_2 and emissions on units subject to BART and reasonable progress within the regional haze implementation plan (Table 2).

TABLE 2—CONTROL MEASURES AND UPDATES FOR SOURCES SUBJECT TO BART AND REASONABLE PROGRESS IN WYOMING

Unit	PM control type	PM_{10} emission limit	NO_X control type	NO_X emission limit	SO_2 emission limit
	SIP Emission Limits		**FIP Emission Limits**		
Basin Electric—Laramie River Unit 1 (550 Mega Watt (MW)).	Electrostatic Precipitator (ESP) (completed).	0.030 lb/MMBtu	Selective Catalytic Reduction (SCR) (completed).	0.06 lb/MMBtu (30-day rolling) *.	0.12 lb/MMBtu (averaged annually across Units 1 and 2).
Basin Electric—Laramie River Unit 2 (550 MW).	ESP (completed)	0.030 lb/MMBtu	Selective Noncatalytic Reduction (SNCR) (completed).	0.15 lb/MMBtu (30-day rolling) *.	
Basin Electric—Laramie River Unit 3 (550 MW).	ESP (completed)	0.030 lb/MMBtu	SNCR 12/30/2018 * (completed).	0.15 lb/MMBtu (30-day rolling) *.	N/A.
PacifiCorp—Dave Johnston Unit 3 (230 MW).	Fabric Filter (completed).	0.015 lb/MMBtu	New Low NO_X Burners (LNB) + Overfire Air (OFA) and shut down by 12/31/2027; or New LNB + OFA and SCR no later than 3/4/2019 **.	0.28 lb/MMBtu (30-day rolling) and shutdown; or 0.07 lb/MMBtu (30-day rolling).	N/A.
PacifiCorp—Wyodak Unit 1 (335 MW).	Fabric Filter (completed).	0.015 lb/MMBtu	SCR, no later than 3/4/2019 ‡.	0.07 lb/MMBtu (30-day rolling) ‡.	N/A.
	SIP Emission Limits				
PacifiCorp—Dave Johnston Unit 4 (330 MW).	Fabric Filter (completed).	0.015 lb/MMBtu	LNB + OFA (completed) ..	0.15 lb/MMBtu (30-day rolling).	N/A.
PacifiCorp—Naughton Unit 1 (160 MW).	ESP + Flue Gas Conditioning (FGC) (completed).	0.040 lb/MMBtu	LNB + OFA (completed) ..	0.26 lb/MMBtu (30-day rolling).	N/A.
PacifiCorp—Naughton Unit 2 (210 MW).	ESP + FGC (completed).	0.040 lb/MMBtu	LNB + OFA (completed) ..	0.26 lb/MMBtu (30-day rolling).	N/A.
PacifiCorp—Naughton Unit 3 (330 MW with max annual heat input of 40%) †.	Natural Gas Conversion by 1/30/19.	0.008 lb/MMBtu	Natural Gas Conversion by 1/30/19; new LNB + Flue Gas Recirculation (FGR) (in progress) ††.	0.12 lb/MMBtu (30-day rolling).	N/A.
PacifiCorp—Jim Bridger Unit 1 (530 MW).	ESP + FGC (completed).	0.030 lb/MMBtu	LNB + OFA + SCR (to be completed 12/31/2022).	0.26 lb/MMBtu (30-day rolling) by 2019; 0.07 lb/MMBtu (SCR).	N/A.
PacifiCorp—Jim Bridger Unit 2 (530 MW).	ESP + FGC (completed).	0.030 lb/MMBtu	LNB + OFA + SCR (to be completed 12/31/2021).	0.26 lb/MMBtu (30-day rolling) by 2019; 0.07 lb/MMBtu (SCR).	N/A.
PacifiCorp—Jim Bridger Unit 3 (530 MW).	ESP + FGC (completed).	0.030 lb/MMBtu	LNB + OFA + SCR (completed).	0.07 lb/MMBtu (30-day rolling) (SCR).	N/A.

[17] In 2011, three states participated in the SO_2 Backstop Trading Program. SO_2 emissions from all three participating states are recorded and collectively compared to the milestone.

TABLE 2—CONTROL MEASURES AND UPDATES FOR SOURCES SUBJECT TO BART AND REASONABLE PROGRESS IN WYOMING—Continued

Unit	PM control type	PM_{10} emission limit	NO_X control type	NO_X emission limit	SO_2 emission limit
PacifiCorp—Jim Bridger Unit 4 (530 MW).	ESP + FGC (completed).	0.030 lb/MMBtu	LNB + OFA + SCR (completed).	0.07 lb/MMBtu (30-day rolling) (SCR).	N/A.
FMC—Westvaco Trona Plant Unit NS—1A.	ESP (completed)	0.05 lb/MMBtu ...	LNB + OFA (completed) ..	0.35 lb/MMBtu (30-day rolling).	N/A.
FMC—Westvaco Trona Plant Unit NS—1B.	ESP (completed)	0.05 lb/MMBtu ...	LNB + OFA (completed) ..	0.35 lb/MMBtu (30-day rolling).	N/A.
TATA Chemicals Green River Trona Plant Unit C.	ESP (completed)	0.09 lb/MMBtu ...	LNB + SOFA (completed)	0.28 lb/MMBtu (30-day rolling average).	N/A.
TATA Chemicals Green River Trona Plant Unit D.	ESP (completed)	0.09 lb/MMBtu ...	LNB + SOFA (completed)	0.28 lb/MMBtu (30-day rolling).	N/A.

* The NO_X and SO_2 emission limits and controls for Basin Electric Laramie River Units 1—3 reflect implementation plan revisions that became federally enforceable on June 19, 2019. 84 FR 22711 (May 20, 2019).

** The EPA's Clean Air Markets Division (CAMD) database indicates the operation of the new low NO_X burners and separated overfire air began on May 23, 2010. Air Markets Program Data, *https://ampd.epa.gov/ampd/* (last visited February 10, 2020). PacifiCorp appears to be planning to retire the unit by 2027.

‡ On September 9, 2014, the United States Court of Appeals for the Tenth Circuit stayed the NO_X emission limits for Wyodak Unit 1 in the regional haze FIP. The NO_X emission limits for Laramie River Station Units 1–3 were also stayed but were later revised as explained above.

† The PM and NO_X emission limits and controls reflect a SIP revision that became federally enforceable on April 22, 2019. 84 FR 10433 (March 21, 2019).

†† PacifiCorp, *2019 Integrated Resource Plan* (October 2019), *https://www.pacificorp.com/content/dam/pcorp/documents/en/pacificorp/energy/integrated-resource-plan/2019_IRP_Volume_I.pdf* (last visited February 20, 2020).

The EPA proposes to find that Wyoming has adequately addressed the applicable provisions under 40 CFR 51.309(d)(10)(i)(A) regarding the implementation status of control measures because the State's Progress Report provides documentation of the implementation of control measures within Wyoming, including the BART-eligible sources and reasonable progress sources in the State.

2. Summary of Emissions Reductions Achieved

Wyoming's Progress Report must include a summary of the emissions reductions achieved throughout the State through implementation of control measures mentioned in 40 CFR 51.309(d)(10)(i)(A). 40 CFR 51.309(d)(10)(i)(B).

In its Progress Report, Wyoming presents information on emissions reductions achieved from the pollution control strategies discussed above. The State provides regional SO_2 emissions from 2003 through 2015 (Table 3) as well as Statewide SO_2, NO_X, ammonia, volatile organic compounds, primary organic aerosol, elemental carbon, fine soil, and coarse mass emissions in 2002 and 2008 (Table 4).

TABLE 3—REGIONAL SO_2 EMISSIONS AND MILESTONES [18]

Year	Adjusted reported SO_2 emissions (tons)	Adjusted regional milestone (tons)
2003	* 330,679	* 447,383
2004	* 337,970	* 448,259
2005	* 304,591	* 446,903
2006	** 279,134	** 420,194
2007	** 273,663	** 420,637
2008	** 244,189	378,398
2009	143,704	234,903
2010	131,124	200,722
2011	117,976	200,722
2012	96,246	200,722
2013	101,381	185,795
2014	92,533	170,868
2015	81,454	155,940

* Represents the adjusted SO_2 emissions/milestone for Arizona, New Mexico, Oregon, Utah, Wyoming, and Albuquerque-Bernalillo County.

** Represents the adjusted SO_2 emissions/milestone for Arizona, New Mexico, Utah, Wyoming, and Albuquerque-Bernalillo County. Figures with no asterisk represent the adjusted SO_2 emissions/milestone for New Mexico, Utah, Wyoming, and Albuquerque-Bernalillo County.

[18] *See* Wyoming Progress Report, page 10; *see also* Western Regional Air Partnership, 309 Committee: Documents, *https://www.wrapair.org//forums/309/docs.html* (last visited March 6, 2020). This Table represents the adjusted SO_2 emissions/milestone for New Mexico, Utah, Wyoming, and Albuquerque-Bernalillo County. Adjustments to reported emissions are required to allow the basis of current emissions estimates to account for changes in monitoring and calculation methods.

TABLE 4 SO_2, NO_X, AMMONIA, VOLATILE ORGANIC COMPOUNDS, PRIMARY ORGANIC AEROSOL, ELEMENTAL CARBON, FINE SOIL, AND COARSE MASS EMISSIONS [19]

Pollutant	2002 Emissions † (tons/year)	2008 Emissions ‡ (tons/year)	Difference between 2002 and 2008 emissions (tons/year)/ percent change
Sulfur Dioxide	145,840	112,655	−33,186/−23
Nitrogen Oxides	287,974	230,678	−57,296/−20
Ammonia	33,032	27,024	−6,007/−18
Volatile Organic Compounds	816,904	339,534	−477,370/−58
Primary Organic Aerosol	29,194	25,027	−4,167/−14
Elemental Carbon	8,066	6,105	−1,961/−24
Fine Soil	23,020	55,959	32,940/>100
Coarse Mass	102,660	366,673	264,014/>100

† Plan02d.
‡ WestJump2008.

The emissions data show that there were decreases in emissions of SO_2, NO_X, ammonia, volatile organic compounds, primary organic aerosol, and elemental carbon. Furthermore, regional SO_2 emissions have been below the milestone every year. According to the State, for coarse and fine particulate matter categories, the increases (≤100%) in emissions between 2002 and 2008 may be due to enhancements in dust inventory methodology rather than changes in actual emissions.[20]

The EPA proposes to conclude that Wyoming has adequately summarized the emissions reductions achieved throughout the State in its Progress Report as required under 40 CFR 51.309(d)(10)(i)(B). In meeting this requirement, the EPA does not expect states to quantify emissions reductions for measures which have not yet been implemented or for which the compliance date has not yet been reached. However, for purposes of future progress reports, we recommend that Wyoming include additional quantitative details on the reductions of each major specific visibility-impairing pollutant and utilize the EPA's Clean Air Market Division (CAMD) database,[21] as appropriate.[22]

3. Visibility Conditions and Changes

Pursuant to 40 CFR 51.309(d)(10)(i)(C), for each mandatory Class I area within the State, Wyoming must assess the following visibility conditions and changes, with values for most impaired and least impaired days[23] expressed in terms of five-year averages of these annual values:

i. Assess the current visibility conditions for the most impaired and least impaired days.

ii. Analyze the difference between current visibility conditions for the most impaired and least impaired days and baseline visibility conditions.

iii. Evaluate the change in visibility impairment for the most impaired and least impaired days over the past five years.

In its Progress Report, Wyoming provides information on visibility conditions for the Class I areas within its borders. There are seven Class I areas located in Wyoming: Bridger Wilderness, Fitzpatrick Wilderness, Grand Teton National Park, North Absaroka Wilderness, Teton Wilderness, Washakie Wilderness and Yellowstone National Park. Monitoring and data representing visibility conditions in Wyoming's seven Class I areas is based on the three Interagency Monitoring of Protected Visual Environments (IMPROVE) monitoring sites located across the State (Table 5).

TABLE 5—WYOMING'S CLASS I AREAS AND IMPROVE SITES

Class I area	IMPROVE site
Bridger Wilderness	Bridger (BRID1).
Fitzpatrick Wilderness	Bridger (BRID1).
Grand Teton National Park	Yellowstone Lake Maintenance Building (YELL2).
North Absaroka Wilderness	North Absaroka (NOAB1).
Teton Wilderness	Yellowstone Lake Maintenance Building (YELL2).
Washakie Wilderness	North Absaroka (NOAB1).
Yellowstone National Park	Yellowstone Lake Maintenance Building (YELL2).

The Progress Report addressed current visibility conditions and the difference between current visibility conditions and baseline visibility conditions with values for the most impaired (20 percent worst days) and least impaired and/or clearest days (20 percent best days). Table 6: Visibility Progress in Wyoming's Class I Areas, shows the difference between the current period (represented by 2005–2009 data) and the baseline visibility data (represented by 2000–2004 data).[24] The EPA supplemented the data provided by the State by including more

[19] Wyoming Progress Report, pages 30–37.

[20] Wyoming Progress Report, page 29.

[21] The EPA's Clean Air Markets Division (CAMD) database is available at: *https://ampd.epa.gov/ampd/*.

[22] U.S. Environmental Protection Agency, *General Principles for the 5-Year Regional Haze Progress Reports for the Initial Regional Haze State Implementation Plans* (Intended to Assist States and EPA Regional Offices in the Development and Review of the Progress Reports), pages 8–9 (April 2013).

[23] The ''most impaired days'' and ''least impaired days'' in the Regional Haze Rule refers to the average visibility impairment (measured in deciviews) for the 20% of monitored days in a calendar year with the highest and lowest amount of visibility impairment, respectively, averaged over a five-year period. *See* 40 CFR 51.301.

[24] Wyoming Progress Report, pages 18–19.

current data (2012–2016) for both the worst 20 percent and best 20 percent days.[25] We also supplemented the data provided by the State by including visibility data for the baseline period (2000–2004) and more current period (2012–2016) using the revised visibility tracking metric described in the EPA's December 2018 guidance document.[26] The revised visibility tracking metric selects the 20 percent most ''impaired'' days (as opposed to haziest days) based only on anthropogenic impairment so that days with large impacts from extreme, episodic natural events such as fires and dust storms are no longer selected. Although this revised visibility tracking metric is applicable to the second and future implementation periods for regional haze (and therefore not retroactively required for progress reports for the first regional haze planning period), the revised tracking metric's focus on the days with the highest daily anthropogenic impairment shifts focus away from days influenced by fire and dust events, and is therefore a more accurate metric for showing visibility progress especially for Class I areas heavily impacted by wildfire. This supplemental data is shown in square brackets in Table 6. Table 7: Visibility Rolling 5-Year Averages in Wyoming's Class I Areas, shows the rolling 5-year average visibility from 2000–2014 as well as the change from the first 5-year rolling average period (2000–2004) to the last 5-year rolling average period (2010–2014).[27]

TABLE 6—VISIBILITY PROGRESS IN WYOMING'S CLASS I AREAS

Class I area	IMPROVE site	Baseline period 2000–04	Current period 2005–09	More current period 2012–16	Difference (current-baseline)	Difference (more current-baseline)
			Deciview			
	20% Worst Days [20% Most Anthropogenically Impaired Days]					
Bridger Wilderness	BRID1	11.1 [8.0]	10.7	10.8 [6.6]	−0.4	−0.3 [−1.4]
Fitzpatrick Wilderness	BRID1	11.1 [8.0]	10.7	10.8 [6.6]	−0.4	−0.3 [−1.4]
Grand Teton National Park	YELL2	11.8 [8.3]	11.5	12.3 [7.7]	−0.3	0.5 [−0.6]
North Absaroka Wilderness	NOAB1	11.5 [8.8]	11.0	11.3 [7.2]	−0.5	−0.2 [−1.6]
Teton Wilderness	YELL2	11.8 [8.3]	11.5	12.3 [7.7]	−0.3	0.5 [−0.6]
Washakie Wilderness	NOAB1	11.5 [8.8]	11.0	11.3 [7.2]	−0.5	−0.2 [−1.6]
Yellowstone National Park	YELL2	11.8 [8.3]	11.5	12.3 [7.7]	−0.3	0.5 [−0.6]
	20% Best Days					
Bridger Wilderness	BRID1	2.1	1.5	0.8	−0.6	−1.3
Fitzpatrick Wilderness	BRID1	2.1	1.5	0.8	−0.6	−1.3
Grand Teton National Park	YELL2	2.6	2.0	1.4	−0.6	−1.2
North Absaroka Wilderness	NOAB1	2.0	1.2	1.0	−0.8	−1.0
Teton Wilderness	YELL2	2.6	2.0	1.4	−0.6	−1.2
Washakie Wilderness	NOAB1	2.0	1.2	1.0	−0.8	−1.0
Yellowstone National Park	YELL2	2.6	2.0	1.4	−0.6	−1.2

TABLE 7—VISIBILITY ROLLING 5-YEAR AVERAGES IN WYOMING'S CLASS I AREAS

Class I area	IMPROVE site	2000–04	2005–09	2006–10	2007–11	2008–12	2009–13	2010–14	Change from baseline
		Deciview							
	20% Worst Days								
Bridger Wilderness	BRID1	11.1	10.7	10.6	10.0	10.8	10.2	10.3	−0.8
Fitzpatrick Wilderness	BRID1	11.1	10.7	10.6	10.0	10.8	10.2	10.3	−0.8
Grand Teton National Park	YELL2	11.8	11.5	11.6	11.7	12.5	12.0	12.0	0.2
North Absaroka Wilderness	NOAB1	11.4	11.0	*—	*—	*—	*—	11.6	0.2
Teton Wilderness	YELL2	11.8	11.5	11.6	11.7	12.5	12.0	12.0	0.2
Washakie Wilderness	NOAB1	11.4	11.0	*—	*—	*—	*—	11.6	0.2
Yellowstone National Park	YELL2	11.8	11.5	11.6	11.7	12.5	12.0	12.0	0.2
	20% Best Days								
Bridger Wilderness	BRID1	2.1	1.5	1.4	1.3	1.1	1.0	1.0	−1.1
Fitzpatrick Wilderness	BRID1	2.1	1.5	1.4	1.3	1.1	1.0	1.0	−1.1
Grand Teton National Park	YELL2	2.6	2.0	1.8	1.7	1.5	1.5	1.4	−1.2

[25] Federal Land Manager Environmental Database, Visibility Status and Trends Following the Regional Haze Rule Metrics, *http://views.cira.colostate.edu/fed/SiteBrowser/Default.aspx?appkey=SBCF_VisSum* (last visited February 10, 2020).

[26] U.S. Environmental Protection Agency, *Technical Guidance on Tracking Visibility Progress for the Second Implementation Period of the Regional Haze Program* (December 20, 2018), *https://www.epa.gov/sites/production/files/2018-12/documents/technical_guidance_tracking_visibility_progress.pdf* (last visited February 10, 2020).

[27] Wyoming Progress Report, pages 24–27.

TABLE 7—VISIBILITY ROLLING 5-YEAR AVERAGES IN WYOMING'S CLASS I AREAS—Continued

Class I area	IMPROVE site	2000–04	2005–09	2006–10	2007–11	2008–12	2009–13	2010–14	Change from baseline
		Deciview							
North Absaroka Wilderness	NOAB1	2.0	1.2	*—	*—	*—	*—	1.2	−0.8
Teton Wilderness	YELL2	2.6	2.0	1.8	1.7	1.5	1.5	1.4	−1.2
Washakie Wilderness	NOAB1	2.0	1.2	*—	*—	*—	*—	1.2	−0.8
Yellowstone National Park	YELL2	2.6	2.0	1.8	1.7	1.5	1.5	1.4	−1.2

* Data recovery issues in 2007, 2009, 2010 and 2011 nullified 5-year averages.

As shown in Table 6, all the IMPROVE monitoring sites within the State show improvement in visibility conditions between the baseline (2000–2004) and current (2005–2009) periods on both the 20 percent worst visibility and 20 percent best visibility days. When considering only anthropogenic impairment within the baseline (2000–2004) and most current (2012–2016) periods, all of the IMPROVE monitoring sites within the State also show improvement in visibility on the 20 percent most impaired days. Deciview improvement was consistent over the 2000–2014 time period, using 5-year rolling averages, on the 20 percent best days (Table 7).[28]

In its Progress Report, Wyoming demonstrates that particulate organic matter was the largest contributor to light extinction on the 20 percent worst days.[29] According to the State, the largest contributions of particulate organic matter generally occurred between June and September consistent with the period for increased wildfire activity, especially for the year 2012, when wildfires burned nearly 130,000 acres in June 2012 in Wyoming.[30] Indeed, when uncontrollable, non-anthropogenic sources are removed from the selection of most of the worst visibility days, visibility improves by almost 40 percent at all Class I areas thereby demonstrating the significant contributions of non-anthropogenic sources on visibility, particularly organic mass from wildfires.

The EPA proposes to conclude that Wyoming has adequately addressed the requirements under 40 CFR 51.309(d)(10)(i)(C) to include summaries of monitored visibility data as required by the Regional Haze Rule.

4. Emissions Tracking Analysis

Wyoming's Progress Report must include an analysis tracking the change over the past five years in emissions of pollutants contributing to visibility impairment from all sources and activities within the State. 40 CFR 51.309(d)(10)(i)(D).

In its Progress Report, Wyoming presents data from a 2008 emissions inventory, which leverages inventory development work performed by the Western Regional Air Partnership (WRAP) for the West-wide Jumpstart Air Quality Modeling Study (WestJumpAQMS)[31] and the Deterministic & Empirical Assessment of Smoke's Contribution to Ozone ($DEASCO_3$) modeling projects, termed WestJump2008, and compares it to the baseline emissions inventory for 2002 (Plan02d). The pollutants inventoried include the following source classifications: SO_2, NO_X, ammonia, volatile organic compounds, primary organic aerosol, elemental carbon, fine soil and coarse mass from both anthropogenic and natural sources (Table 8).

TABLE 8—EMISSIONS PROGRESS IN WYOMING

[tons/year]

Pollutant (anthropogenic, natural, and total sources)	2002 emissions (Plan02d)	2008 emissions (WestJump2008)	Difference (percent change)
SO_2:			
Anthropogenic	143,554	111,604	−31,950 (−22)
Natural	2,286	1,051	−1,235 (−54)
Total	145,840	112,655	−33,186 (−23)
NO_X:			
Anthropogenic	263,677	216,321	−47,356 (−18)
Natural	24,297	14,357	−9,940 (−41)
Total	287,974	230,678	−57,296 (−20)
Ammonia:			
Anthropogenic	31,257	21,848	−9,409 (−30)

[28] Refer to the Wyoming Progress Report for pollutant contributions at each Class I area and 5-year rolling averages. Wyoming Progress Report, pages 24–27.

[29] Wyoming Progress Report, page 15.

[30] NOAA National Centers for Environmental Information, State of the Climate: Wildfires for June 2012, *http://www.ncdc.noaa.gov/sotc/fire/201206* (last visited February 10, 2020).

[31] WRAP Regional Technical Center and West Jump AQMS, *https://www.wrapair2.org/WestJumpAQMS.aspx* (last visited February 10, 2020). Additional information on the WestJump study available in the docket for this action, ''WestJump Fact Sheet.''

TABLE 8—EMISSIONS PROGRESS IN WYOMING—Continued

[tons/year]

Pollutant (anthropogenic, natural, and total sources)	2002 emissions (Plan02d)	2008 emissions (WestJump2008)	Difference (percent change)
Natural	1,775	5,177	3,402 (>100)
Total	33,032	27,024	−6,007 (−18)
Volatile Organic Compounds:			
Anthropogenic	193,158	157,134	−36,024 (−19)
Natural	623,747	182,401	−441,346 (−71)
Total	816,904	339,534	−477,370 (−58)
Primary Organic Aerosol:			
Anthropogenic	5,401	8,686	3,285 (61)
Natural	23,793	16,341	−7,452 (−31)
Total	29,194	25,027	−4,167 (−14)
Elemental Carbon:			
Anthropogenic	3,144	3,772	628 (20)
Natural	4,922	2,333	−2,589 (−53)
Total	8,066	6,105	−1,961 (−24)
Fine Soil:			
Anthropogenic	15,646	44,382	28,736 (>100)
Natural	7,374	11,577	4,204 (57)
Total	23,020	55,959	32,940 (>100)
Coarse Mass:			
Anthropogenic	44,745	312,867	268,122 (>100)
Natural	57,915	53,806	−4,108 (−7)
Total	102,660	366,673	264,014 (>100)

Overall, Wyoming's emissions that affect visibility were reduced in all sectors for all pollutants (total) except for coarse and fine particulate matter categories. Wyoming cites increases in windblown and fugitive dust and enhancements in dust inventory methodologies as reasons for the increase in fine and coarse particulate matter emissions over the time period analyzed in the Progress Report.[32] A state adjacent to Wyoming, Montana, with similar increases in fine and coarse particulate matter also cited larger-than-expected amounts of emissions in anthropogenic and natural fires as another reason for the increase in fine and coarse particulate matter.[33] The largest differences in point source inventories were decreases in SO_2 emissions, which can be attributed to the implementation of the SO_2 Backstop Trading Program in December 2003.

The EPA proposes to conclude that Wyoming has adequately addressed the requirements under 40 CFR 51.309(d)(10)(i)(D) to track changes in emissions of pollutants contributing to visibility impairment from all sources and activities within the State.

5. Assessment of Changes Impeding Visibility Progress

Wyoming's Progress Report must include an assessment of any significant changes in anthropogenic emissions within or outside the State that have occurred over the past five years that have limited or impeded progress in reducing pollutant emissions and improving visibility in Class I areas impacted by the State's sources. 40 CFR 51.309(d)(10)(i)(E).

In its Progress Report, Wyoming provided an assessment of any significant changes in anthropogenic emissions within or outside the State. On the 20% worst days over the 5-year period from 2005–2009, particulate organic matter and SO_2 were the two highest contributors to haze in Class I areas in Wyoming.[34] According to the State, the primary sources of anthropogenic particulate organic matter in Wyoming include prescribed forest and agricultural burning, vehicle exhaust, vehicle refueling, solvent evaporation (*e.g.* paints), food cooking, and various commercial and industrial sources. The primary anthropogenic sources of SO_2 include coal-burning power plants and other industrial sources. In their Progress Report, the State concludes that both particulate organic matter and SO_2 are covered by existing regional haze long-term control strategies, including the SO_2 Backstop Trading Program and other control strategies discussed in Section III.A.1. Furthermore, the State concludes that there do not appear to be any other anthropogenic emissions within Wyoming that would have limited or impeded progress in reducing pollutant emissions or improving visibility.

Although not cited in Wyoming's Progress Report, at the time of the analysis done by the State for the Progress Report, not all BART and reasonable progress controls had been installed because compliance dates had

[32] Wyoming Progress Report, page 29.

[33] 84 FR 32682 (July 9, 2019).

[34] Wyoming Progress Report, page 16.

not yet occurred for all facilities subject to BART and reasonable progress requirements at that time (Table 2). Thus, the impacts of the emissions reductions from those additional controls have not been fully realized and are therefore not evident or accounted for in the State's Progress Report. Once realized, we anticipate that these additional anthropogenic emissions reductions will further improve visibility in Wyoming's Class I areas.

The EPA proposes to find that Wyoming has adequately addressed the requirements under 40 CFR 51.309(d)(10)(i)(E) to assess significant changes in anthropogenic emissions of visibility impairing pollutants.

6. Assessment of Current Implementation Plan Elements and Strategies

Wyoming's Progress Report must include an assessment of whether the current regional haze implementation plan elements and strategies are sufficient to enable the State, or other states with mandatory Class I areas affected by emissions from the State, to meet all established reasonable progress goals. 40 CFR 51.309(d)(10)(i)(F).

In its Progress Report, Wyoming provided an assessment of whether the current regional haze implementation plan elements and strategies are sufficient to enable the State, and other states with Class I areas affected by emissions from the State, to meet the reasonable progress goals established by the State. However, the EPA disapproved Wyoming's reasonable progress goals, and instead promulgated reasonable progress goals consistent with the emission limits finalized in the approved SIP and FIP.[35] Due to time and resource constraints, the EPA did not re-run the modeling necessary to quantify reasonable progress goals in deciviews, but anticipated that additional controls imposed by the FIP would result in visibility improvement on the 20% worst days.[36] Thus, for the purpose of evaluating this section of the progress report requirements, we propose to rely on the fact that all controls required by the regional haze implementation plan or modified by subsequent action have been installed or are on track to be complete by the relevant compliance date, except those stayed by litigation. We also propose to rely on other quantitative and qualitative metrics to assess the current implementation plan elements and strategies.

Wyoming asserts that even with wildfire emissions included in the assessment of visibility impacts on Class I areas, visibility continues to improve at the State's Class I areas from 2000 through 2009 and into 2010. Indeed, key visibility metrics described previously, show: (1) A decrease in SO_2 and NO_X emissions, which are associated with anthropogenic sources; (2) improvement in visibility conditions between the baseline (2000–2004) and current (2005–2009) periods on both the 20 percent worst visibility and 20 percent best visibility days; and (3) improvement in visibility conditions at all of the IMPROVE monitoring sites within the State on the 20 percent most impaired days. Furthermore, the State claims that conservative emissions estimates provided in its Progress Report show total emissions decreases for all major pollutant categories except coarse and fine particulate matter, which are likely due to enhancements in inventory methodology.[37] Wyoming also expects further reductions in anthropogenic pollutant categories from a revised regional emissions inventory reflective of all final BART and reasonable progress controls.[38]

Following the future implementation of remaining BART controls and the adjustment of the visibility metrics to account only for anthropogenic impairment, even greater visibility progress should be realized. Thus, Wyoming is confident that the current implementation plan elements and strategies are sufficient to make progress towards visibility goals and will not impede Class I areas outside of Wyoming from meeting their goals in the next planning period.[39]

The EPA proposes to conclude that Wyoming has adequately addressed the requirements under 40 CFR 51.309(d)(10)(i)(F) and proposes to agree with the State's determination that implementation plan elements are sufficient to enable the State and other states affected by emissions from Wyoming to make progress towards the current reasonable progress goals. The EPA views the requirement of this section as a qualitative assessment that should evaluate emissions and visibility trends, including expected emissions reductions from measures that have not yet been implemented.

7. Review of Current Monitoring Strategy

Wyoming's Progress Report must include a review of the State's visibility monitoring strategy and any modifications to the strategy as necessary. 40 CFR 51.309(d)(10)(i)(G).

The monitoring strategy for regional haze in Wyoming relies upon participation in the IMPROVE network, which is the primary monitoring network for regional haze nationwide.

In its Progress Report, Wyoming summarizes the existing monitoring network, which includes three IMPROVE monitors, used to monitor visibility at the seven Class I areas in the State. The State relies solely on the IMPROVE monitoring network to track long-term visibility improvement and degradation and will continue to rely on the IMPROVE monitoring network, without modifications to the existing network, for complying with the regional haze monitoring requirements.

The EPA proposes to find that Wyoming adequately addressed the requirements of 40 CFR 51.309(d)(10)(i)(G) because the State reviewed its visibility monitoring strategy and determined that no further modifications to the strategy are necessary.

B. Determination of Adequacy of the Existing Regional Haze Plan

The provisions under 40 CFR 51.309(d)(10)(ii) require states to determine the adequacy of their existing implementation plan to meet existing reasonable progress goals and take one of the following actions:

(1) Submit a negative declaration to the EPA that no further substantive revision to the state's existing regional haze implementation plan is needed at this time.

(2) If the state determines that the implementation plan is or may be inadequate to ensure reasonable progress due to emissions from sources in another state(s) which participated in a regional planning process, the state must provide notification to the EPA and to the other state(s) which participated in the regional planning process with the state. The state must also collaborate with the other state(s) through the regional planning process for developing additional strategies to address the plan's deficiencies.

(3) Where the state determines that the implementation plan is or may be inadequate to ensure reasonable progress due to emissions from sources in another country, the state shall provide notification, along with available information, to the Administrator.

[35] 79 FR 5038 (January 30, 2014).

[36] 77 FR 33022, 33057 (June 4, 2012).

[37] Wyoming Progress Report, pages 27–29.

[38] Wyoming Progress Report, page 41.

[39] Wyoming Progress Report, page 41.

(4) If the state determines that the implementation plan is or may be inadequate to ensure reasonable progress due to emissions from sources within the state, then the state shall revise its implementation plan to address the plan's deficiencies within one year.

According to Wyoming, the IMPROVE data demonstrate that Wyoming is on track to either meet or exceed the State's reasonable progress goals. Thus, Wyoming's Progress Report provides a negative declaration to the EPA that no further substantive revisions to the regional haze implementation plan are needed to improve visibility in Class I areas beyond those controls already in place and scheduled to be installed in the future. The EPA proposes to conclude that Wyoming has adequately addressed 40 CFR 51.309(d)(10)(i)(G) because: (1) All controls required by the regional haze implementation plan or modified by subsequent action have been installed or are on track to be complete by the relevant compliance date, except those stayed by litigation; and (2) key visibility metrics described previously show a decrease in SO_2 and NO_X emissions, improvement in visibility conditions between the baseline (2000–2004) and current (2005–2009) periods on both the 20 percent worst visibility and 20 percent best visibility days, and improvement in visibility conditions at all of the IMPROVE monitoring sites within the State on the 20 percent most impaired days. Additionally, the EPA expects further visibility improvement to result from the future installation of controls required by the regional haze implementation plans and subsequent actions.

IV. Proposed Action

The EPA is proposing to approve Wyoming's November 28, 2017, Regional Haze Progress Report as meeting the applicable regional haze requirements set forth in 40 CFR 51.309(d)(10).

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

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: April 9, 2020.

Gregory Sopkin,

Regional Administrator, EPA Region 8.

[FR Doc. 2020–07941 Filed 4–16–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2020–0030; EPA–R05–OAR–2020–0101; FRL–10007–32–Region 5]

Air Plan Approval; Wisconsin; Redesignation of the Wisconsin Portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin Area to Attainment of the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to find that the Chicago-Naperville, IL-IN-WI area (Chicago area) is attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard) and to act in accordance with a request from the Wisconsin Department of Natural Resources (Wisconsin or the State) to redesignate the Wisconsin portion of the area to attainment for the 2008 ozone NAAQS. Wisconsin submitted this request on January 21, 2020. EPA is proposing to approve, as a revision to the Wisconsin State Implementation Plan (SIP), the State's plan for maintaining the 2008 ozone NAAQS through 2030 in the Chicago area. EPA is proposing to approve Wisconsin's 2025 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Kenosha portion. Finally EPA is proposing to approve the VOC reasonably available control technology (RACT) SIP revisions included in Wisconsin's January 21, 2020 and February 12, 2020 submittals.

DATES: Comments must be received on or before May 18, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2020–0030 or EPA–R05–OAR–2020–0101 at *http://www.regulations.gov* or via email to *blakley.pamela@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of

submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Leslie, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680, *leslie.michael@epa.gov.*

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

I. What is EPA proposing?
II. What is the background for these actions?
III. What are the criteria for redesignation?
IV. What is EPA's analysis of Wisconsin's redesignation request?
V. Has the state adopted approvable motor vehicle emission budgets?
VI. VOC RACT in the Kenosha Portion
VII. Proposed Actions
VIII. Incorporation by Reference
IX. Statutory and Executive Order reviews

I. What is EPA proposing?

EPA is proposing to take several related actions. EPA is proposing to determine that the Chicago nonattainment area is attaining the 2008 ozone NAAQS, based on quality-assured and certified monitoring data for 2017–2019. The Wisconsin portion of the Chicago 2008 ozone area consists the portion of Kenosha County bounded by the I–94 corridor and the area east to Lake Michigan (Kenosha portion). The Kenosha portion has met the requirements for redesignation under section 107(d)(3)(E) of the Clean Air Act (CAA). EPA is thus proposing to change the legal designation of the Kenosha portion from nonattainment to attainment for the 2008 ozone NAAQS. EPA is also proposing to approve, as a revision to the Wisconsin SIP, the State's maintenance plan (such approval being one of the CAA criteria for redesignation to attainment status) for the Kenosha portion. The maintenance plan is designed to keep the Chicago area in attainment of the 2008 ozone NAAQS through 2030. EPA also finds adequate and is proposing to approve the newly-established 2025 and 2030 MVEBs for the Kenosha portion. Finally, EPA is proposing to approve the VOC RACT SIP revisions included in Wisconsin's January 21, 2020 and February 12, 2020 submittals because they satisfy the moderate VOC RACT requirements of the CAA for the Kenosha portion.

II. What is the background for these actions?

EPA has determined that ground-level ozone is detrimental to human health. On March 27, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.075 ppm, when truncated after the thousandth decimal place, at all ozone monitoring sites in the area. *See* 40 CFR 50.19 and appendix U to 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent three years of quality assured ozone monitoring data. The Chicago area was originally designated as a marginal nonattainment area for the 2008 ozone NAAQS on June 11, 2012 (77 FR 34221), effective July 20, 2012. EPA reclassified the Chicago area from marginal to moderate nonattainment on May 4, 2016 (81 FR 26697), effective June 3, 2016. The Chicago area was again reclassified to serious on August 23, 2019 (84 FR 44238), effective September 23, 2019.

III. What are the criteria for redesignation?

Section 107(d)(3)(E) of the CAA allows redesignation of an area to attainment of the NAAQS provided that: (1) The Administrator (EPA) determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498) and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the ''Calcagni Memorandum'');
5. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. ''Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting

Assistant Administrator for Air and Radiation, September 17, 1993;

8. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;

9. ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and

10. ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. What is EPA's analysis of Wisconsin's redesignation request?

A. Has the Chicago-Naperville, IL-IN-WI area attained the 2008 ozone NAAQS?

For redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the entire Chicago area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2008 ozone NAAQS as determined in accordance with 40 CFR 50.15 and appendix P of part 50, based on three complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. To attain the NAAQS, the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.075 ppm. The air quality data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). Ambient air quality monitoring data for the 3-year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90 percent of the days within the ozone monitoring seasons,[1] on average, for the 3-year period, with a minimum data completeness of 75 percent during the ozone monitoring season of any year during the 3-year period. *See* section 4 of appendix U to 40 CFR part 50.

EPA has reviewed the available ozone monitoring data from monitoring sites in the Chicago area for the 2017–2019 period. These data have been quality assured, are recorded in the AQS, and have been certified. These data demonstrate that the Chicago area is attaining the 2008 ozone NAAQS. The annual fourth-highest 8-hour ozone concentrations and the 3-year average of these concentrations (monitoring site ozone design values) for each monitoring site are summarized in Table 1.

TABLE 1—ANNUAL FOURTH HIGHEST DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGE OF THE FOURTH HIGHEST DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE CHICAGO-NAPERVILLE, IL-IN-WI 2008 OZONE AREA (PPM)

Site	County	Year		Average	
		2017	2018	2019	2017–2019
Wisconsin:					
55–059–0019	Kenosha	0.079	0.079	0.067	0.075
55–059–0025	Kenosha	0.076	0.080	0.066	0.074
Illinois:					
17–031–0001	Cook	0.078	0.079	0.070	0.075
17–031–0032	Cook	0.074	0.076	0.070	0.073
17–031–0076	Cook	0.078	0.074	0.065	0.072
17–031–1003	Cook	0.060	0.073	0.069	0.067
17–031–1601	Cook	0.070	0.068	0.068	0.068
17–031–3103	Cook	0.061	0.065	0.064	0.063
17–031–4002	Cook	0.068	0.072	0.064	0.068
17–031–4007	Cook	0.071	0.075	0.066	0.070
17–031–4201	Cook	0.070	0.083	0.069	0.074
17–031–7002	Cook	0.073	0.084	0.069	0.075
17–043–6001	DuPage	0.069	0.071	0.062	0.067
17–089–0005	Kane	0.069	0.072	0.071	0.070
17–097–1007	Lake	0.074	0.074	0.065	0.071
17–111–0001	McHenry	0.070	0.074	0.068	0.070
17–197–1011	Will	0.068	0.071	0.060	0.066
Indiana:					
18–089–0022	Lake	0.070	0.071	0.065	0.068
18–089–2008	Lake	0.069	0.062	0.065	0.065
18–127–0024	Porter	0.072	0.071	0.068	0.070
18–127–0026	Porter	0.077	0.071	0.071	0.073

The Chicago area's 3-year ozone design value for 2017–2019 is 0.075 ppm,[2] which meets the 2008 ozone NAAQS. Therefore, in today's action, EPA proposes to determine that the Chicago area is attaining the 2008 ozone NAAQS.

EPA will not take final action to determine that the Chicago area is attaining the NAAQS nor to approve the redesignation of the Kenosha portion of the Chicago area if the design value of a monitoring site in the area violates the NAAQS after proposal but prior to final approval of the redesignation. As discussed in section IV.D.3. below, Wisconsin has committed to continue

[1] The ozone season is defined by state in 40 CFR 58, appendix D. The ozone season for Wisconsin is March-October 15th. *See* 80 FR 65292, 65466–67 (October 26, 2015).

[2] The monitor ozone design value for the monitor with the highest 3-year averaged concentration.

monitoring ozone in this area to verify maintenance of the 2008 ozone NAAQS.

B. Has Wisconsin met all applicable requirements of section 110 and part D of the CAA for the Kenosha portion, and does Wisconsin have a fully approved SIP for the Kenosha portion under section 110(k) of the CAA?

As criteria for redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (*see* section 107(d)(3)(E)(v) of the CAA) and that the state has a fully approved SIP under section 110(k) of the CAA (*see* section 107(d)(3)(E)(ii) of the CAA). EPA finds that Wisconsin has met all applicable SIP requirements, for purposes of redesignation, under section 110 and part D of title I of the CAA (requirements specific to nonattainment areas for the 2008 ozone NAAQS). Additionally, with the exception of the VOC RACT requirements of section 182(b)(2) of the CAA, EPA finds that all applicable requirements of the Wisconsin SIP for the area have been fully approved under section 110(k) of the CAA. As discussed below, in this action EPA is proposing to approve Wisconsin's VOC RACT SIP submissions as meeting the moderate RACT requirements of section 182(b)(2) of the CAA for the Kenosha portion of the Chicago area under the 2008 ozone NAAQS.

In making these determinations, EPA ascertained which CAA requirements are applicable to the Kenosha portion and the Wisconsin SIP and, if applicable, whether the required Wisconsin SIP elements are fully approved under section 110(k) and part D of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to current applicable requirements of the CAA.

The September 4, 1992, Calcagni memorandum (*see* ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) of the CAA. Under this interpretation, a state and the area it wishes to redesignate must meet the relevant CAA requirements that are due prior to the state's submittal of a complete redesignation request for the area. *See also* the September 17, 1993, Michael Shapiro memorandum and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that come due subsequent to the state's submittal of a complete request remain applicable until a redesignation to attainment is approved, but are not required as a prerequisite to redesignation. *See* section 175A(c) of the CAA. *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004). *See also* 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

EPA is proposing to determine that the Chicago area has attained the 2008 ozone standard, under 40 CFR 51.918. If that determination is finalized, the requirements to submit certain planning SIPs related to attainment, including attainment demonstration requirements (the reasonably available control measures (RACM) requirement of section 172(c)(1) of the CAA, the reasonable further progress (RFP) and attainment demonstration requirements of sections 172(c)(2) and (6) and 182(b)(1) of the CAA, and the requirement for contingency measures of section 172(c)(9) of the CAA) would not be applicable to the area as long as it continues to attain the NAAQS and would cease to apply upon redesignation. In addition, in the context of redesignations, EPA has interpreted requirements related to attainment as not applicable for purposes of redesignation. For example, in the General Preamble EPA stated that:

The section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas. ''General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990,'' (General Preamble) 57 FR 13498, 13564 (April 16, 1992).

See also Calcagni memorandum at 6 (''The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.'').

1. Wisconsin has met all applicable requirements of section 110 and part D of the CAA applicable to the Kenosha portion for purposes of redesignation.

a. Section 110 General Requirements for Implementation Plans.

Section 110(a)(2) of the CAA delineates the general requirements for a SIP. Section 110(a)(2) provides that the SIP must have been adopted by the state after reasonable public notice and hearing, and that, among other things, it must: (1) Include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of stationary sources within the areas covered by the plan; (4) include provisions for the implementation of part C prevention of significant deterioration (PSD) and part D new source review (NSR) permit programs; (5) include provisions for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and, (7) provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires SIPs to contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of certain air pollutants, *e.g.,* NO_X SIP call, the Clean Air Interstate Rule (CAIR), Cross State Air Pollution Rule (CSAPR). However, like many of the 110(a)(2) requirements, the section 110(a)(2)(D) SIP requirements are not linked to a particular area's ozone designation and classification. EPA concludes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area within the state. Thus, we believe these requirements are not applicable requirements for purposes of redesignation. *See* 65 FR 37890 (June 15, 2000), 66 FR 50399 (October 19, 2001), 68 FR 25418, 25426–27 (May 13, 2003).

In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's ozone attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated to attainment of the 2008 ozone NAAQS. The section 110 and part D requirements which are

linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania proposed and final rulemakings, 61 FR 53174–53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997); Cleveland-Akron-Loraine, Ohio final rulemaking, 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking, 60 FR 62748 (December 7, 1995). *See also* the discussion of this issue in the Cincinnati, Ohio ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation (66 FR 50399, October 19, 2001).

We have reviewed Wisconsin's SIP and have concluded that it meets the general SIP requirements under section 110 of the CAA, to the extent those requirements are applicable for purposes of redesignation.[3]

b. Part D Requirements.

Section 172(c) of the CAA sets forth the basic requirements of air quality plans for states with nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications.

The Chicago area is classified as serious under subpart 2 for the 2008 ozone NAAQS. As such, the area is subject to the subpart 1 requirements contained in section 172(c) and section 176. Similarly, the area is subject to the subpart 2 requirements contained in sections 182(a), (b), and (c) (marginal, moderate, and serious nonattainment area requirements). A thorough discussion of the requirements contained in section 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

i. Subpart 1 Section 172 Requirements.

CAA Section 172(b)requires states to submit SIPs meeting the requirements of section 172(c) no later than three years from the date of the nonattainment designation.

Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all RACM as expeditiously as practicable and to provide for attainment of the primary NAAQS. Under this requirement, a state must consider all available control measures, including reductions that are available from adopting RACT on existing sources. Because attainment has been reached in the Chicago area, no additional measures are needed to provide for attainment and section 172(c)(1) requirements are no longer considered to be applicable, as long as the area continues to attain the standard until redesignation. *See* 40 CFR 51.918.

The RFP requirement under section 172(c)(2) is defined as progress that must be made toward attainment. EPA approved Wisconsin's RFP plan and RFP contingency measures on February 13, 2019 (84 FR 3701).

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. This requirement was superseded by the inventory requirement in section 182(a)(1) discussed below.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has previously approved Wisconsin's NSR program on October 6, 2014 (79 FR 160064) and February 7, 2017 (82 FR 9515). However, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that the NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Wisconsin has demonstrated that the Kenosha portion will be able to maintain the 2008 ozone NAAQS without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. *See* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). Wisconsin's PSD program will become effective in the Kenosha portion upon redesignation to attainment. EPA approved Wisconsin's PSD program on January 22, 2003 (68 FR 2909) and February 25, 2010 (75 FR 8496).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the standard. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we believe the Wisconsin SIP meets the requirements of section 110(a)(2) for purposes of redesignation.

Section 172(c)(9) requires the SIP to provide for the implementation of contingency measures if the area fails to make reasonably further progress or to attain the NAAQS by the attainment deadline. As noted previously, EPA approved Wisconsin's contingency measures for purposes of RFP on February 13, 2019 (84 FR 3701). With respect to contingency measures for failure to attain the NAAQS by the attainment deadline, this requirement is not relevant for purposes of redesignation because the Chicago area has demonstrated monitored attainment of the 2008 ozone NAAQS. (General Preamble, 57 FR 13564). *See also* 40 CFR 51.918.

ii. Section 176 Conformity Requirements.

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects that are developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity), as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements[4] as not applying for

[3] EPA has previously approved provisions of the Wisconsin SIP addressing section 110 elements under the 2008 ozone NAAQS; 80 FR 54725 (September 11, 2015), 79 FR 60064 (October 6, 2014), 82 FR 9515 (February 7, 2017), 81 FR 74504 (October 26, 2016), and 81 FR 3334 (January 21, 2016).

[4] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining

Continued

purposes of evaluating a redesignation request under section 107(d), because state conformity rules are still required after redesignation and Federal conformity rules apply where state conformity rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Wisconsin has an approved conformity SIP for the Kenosha portion. *See* 79 FR 10995 (February 27, 2014).

iii. Subpart 2 Section 182(a), (b), and (c) Requirements.

Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO_X emitted within the boundaries of the ozone nonattainment area. EPA approved Wisconsin's base year emissions inventory for the Kenosha portion on March 7, 2016 (81 FR 11673) and February 13, 2019, (84 FR 3701).

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC RACT rules that were required under section 172(b)(3) prior to the 1990 CAA amendments. The Kenosha portion is not subject to the section 182(a)(2) RACT ''fix up'' requirement for the 2008 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments and because Wisconsin complied with this requirement for the Kenosha portion under the prior 1-hour ozone NAAQS. *See* 59 FR 41709 (August 15, 1994) and 60 FR 20643 (April 27, 1995).

Section 182(a)(2)(B) requires each state, with a marginal ozone nonattainment area that implemented or was required to implement a vehicle inspection and maintenance (I/M) program prior to the 1990 CAA amendments, to submit a SIP revision for an I/M program no less stringent than that required prior to the 1990 CAA amendments or already in the SIP at the time of the CAA amendments, whichever is more stringent. For the purposes of the 2008 ozone standard and the consideration of Wisconsin's redesignation request for this standard, the Kenosha portion is not subject to the section 182(a)(2)(B) requirement, because the area was designated as nonattainment for the 2008 ozone standard after the enactment of the 1990 CAA amendments and because Wisconsin complied with this requirement for the Kenosha portion under the prior 1-hour ozone NAAQS.

Section 182(a)(3)(B) requires the submission of an emission statement SIP. EPA approved Wisconsin's emission statement SIP for the Kenosha portion for the 2008 ozone NAAQS on February 13, 2019 (84 FR 3701).

Section 182(b)(1) requires the submission of an attainment demonstration and RFP plan. Wisconsin submitted an attainment demonstration and RFP plan for the Kenosha portion on April 17, 2017. EPA approved Wisconsin's RFP plan and RFP contingency measures for the Kenosha portion for the 2008 ozone NAAQS on February 13, 2019 (84 FR 3701). Because attainment has been reached, section 182(b)(1) requirements are no longer considered to be applicable, as long as the area continues to attain the standard. If EPA finalizes approval of the redesignation of the area, EPA will take no further action on the attainment demonstration submitted by Wisconsin.

Section 182(b)(2) requires states with moderate nonattainment areas to implement VOC RACT with respect to each of the following: (1) All sources covered by a Control Technology Guideline (CTG) document issued between November 15, 1990, and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and, (3) all other major non-CTG stationary sources. Wisconsin submitted VOC RACT SIP revisions on January 21, 2020 and February 12, 2020. For the reasons discussed in section VI., below, EPA is proposing to approve the SIP revisions submitted by Wisconsin as meeting the section 182(b)(2) moderate RACT requirements for the Kenosha portion under the 2008 ozone NAAQS.

Section 182(b)(3) requires states to adopt Stage II gasoline vapor recovery regulations. On May 16, 2012 (77 FR 28772), EPA determined that the use of onboard vapor recovery technology for capturing gasoline vapor when gasoline-powered vehicles are refueled is in widespread use throughout the highway motor vehicle fleet and waived the requirement that current and former ozone nonattainment areas implement Stage II vapor recovery systems on gasoline pumps. EPA approved a revision to Wisconsin's Stage II program on November 4, 2013 (78 FR 65875) because the State has demonstrated that onboard refueling vapor recovery systems will be in widespread use in southeast Wisconsin by 2016, making Stage II redundant.

Section 182(b)(4) requires an I/M program for each state with a moderate ozone nonattainment area. EPA approved Wisconsin's I/M program on August 16, 2001 (66 FR 42949) and approved revisions to the program on September 19, 2013 (78 FR 57501). EPA approved Wisconsin's I/M program certification for the Kenosha portion for the 2008 ozone NAAQS on February 13, 2019 (84 FR 3701).

Regarding the source permitting and offset requirements of sections 182(a)(2)(C), 182(a)(4), and 182(b)(5), Wisconsin currently has a fully-approved part D NSR program in place. EPA approved Wisconsin's NSR SIP on January 18, 1995 (60 FR 3538) and February 7, 2017 (82 FR 9515). Further, EPA approved Wisconsin's SIP revision addressing the NSR requirements for the 2008 ozone NAAQS, on May 3, 2019 (84 FR 18989). In addition, EPA approved Wisconsin's PSD program on October 6, 2014 (79 FR 60064). The State's PSD program will become effective in the Kenosha portion upon redesignation of the area to attainment.

Section 182(f) requires states with moderate nonattainment areas to implement NO_X RACT. EPA approved Wisconsin's NO_X RACT SIP on October 19, 2010 (75 FR 64155). EPA approved Wisconsin's certification that its current NO_X RACT SIP meets the moderate NO_X RACT requirements for the Kenosha portion for the 2008 ozone NAAQS on February 13, 2019 (84 FR 3701).

Section 182(c) contains the requirements for areas classified as serious. On August 23, 2019 (84 FR 44238), EPA reclassified the Chicago area from moderate to serious and established August 3, 2020 and March 23, 2021 as the due dates for serious area SIP revisions. No requirements under section 182(c) became due prior to Wisconsin's submission of the complete redesignation request for the Kenosha portion, and, therefore, none are applicable to the area for purposes of redesignation.

Thus, as discussed above, with approval of Wisconsin's section 182(b)(2) VOC RACT SIP, EPA finds that the Kenosha portion will satisfy all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

2. The Kenosha portion has a fully approved SIP for purposes of redesignation under section 110(k) of the CAA.

At various times, Wisconsin has adopted and submitted, and EPA has approved, provisions addressing the various SIP elements applicable for the

transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of MVEBs, such as control strategy SIPs and maintenance plans.

ozone NAAQS. As discussed above, if EPA finalizes approval of Wisconsin's VOC RACT SIP submissions as meeting the requirements of section 182(b)(2) of the CAA, EPA will have fully approved the Wisconsin SIP for the Kenosha portion under section 110(k) for all requirements applicable for purposes of redesignation under the 2008 ozone NAAQS. EPA may rely on prior SIP approvals in approving a redesignation request (see the Calcagni memorandum at page 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA*, 265 F.3d 426). Additional measures may also approved in conjunction with a redesignation action (see 68 FR 25426 (May 12, 2003) and citations therein).

C. Are the air quality improvements in the Chicago area due to permanent and enforceable emission reductions?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions. EPA has determined that Wisconsin has demonstrated that the observed ozone air quality improvement in the Chicago area is due to permanent and enforceable reductions in VOC and NO_X emissions resulting from state measures adopted into the SIP and Federal measures.

In making this demonstration, the State has calculated the change in emissions between 2011 and 2017. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to several regulatory control measures that the Chicago area and upwind areas have implemented in recent years. In addition, Wisconsin provided an analysis to demonstrate the improvement in air quality was not due to unusually favorable meteorology. Based on the information summarized below, EPA finds that Wisconsin has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

1. Permanent and enforceable emission controls implemented.

a. Regional NO_X Controls.

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

On May 12, 2005, EPA published CAIR, which required eastern states, including Wisconsin, to prohibit emissions consistent with annual and ozone season NO_X budgets and annual sulfur dioxide (SO_2) budgets (70 FR 25152). CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter ($PM_{2.5}$) NAAQS and was designed to mitigate the impact of transported NO_X emissions, a precursor of both ozone and $PM_{2.5}$, as well as transported SO_2 emissions, another precursor of $PM_{2.5}$. The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded CAIR to EPA for replacement in 2008. *North Carolina* v. *EPA,* 531 F.3d 896, *modified,* 550 F.3d 1176 (2008). While EPA worked on developing a replacement rule, implementation of the CAIR program continued as planned with the NO_X annual and ozone season programs beginning in 2009 and the SO_2 annual program beginning in 2010.

On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA published CSAPR to replace CAIR and to address the good neighbor provision for the 1997 ozone NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 2006 $PM_{2.5}$ NAAQS.[5] Through Federal Implementation Plans, CSAPR required electric generating units (EGUs) in eastern states, including Wisconsin, to meet annual and ozone season NO_X budgets and annual SO_2 budgets implemented through new trading programs. After delays caused by litigation, EPA started implementing the CSAPR trading programs in 2015, simultaneously discontinuing administration of the CAIR trading programs. On October 26, 2016, EPA published the CSAPR Update, which established, starting in 2017, a new ozone season NO_X trading program for EGUs in eastern states, including Wisconsin, to address the good neighbor provision for the 2008 ozone NAAQS (81 FR 74504). The CSAPR Update is estimated to result in a 20 percent reduction in ozone season NO_X emissions from EGUs in the eastern United States, a reduction of 80,000 tons in 2017 compared to 2015 levels. The reduction in NO_X emissions from the implementation of CAIR and then CSAPR occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

b. Wisconsin Point Source NO_X Reductions.

The NO_X emission units at We Energies—Pleasant Prairie Power Plant (FID #230006260) include two coal fired boilers (B20 and B21), two auxiliary natural gas fired boilers (B22 and B23), and four emergency generators (P30–P33). Boilers B20 and B21 are subject to the NO_X RACT requirements in s. NR 428.22(1)(a)1.a., Wis. Adm. Code and shall comply with the NO_X emission limit of 0.1 pounds per million British thermal units (lbs/MMBtu), based on a 30-day rolling average, by May 1, 2009. Pursuant to a consent decree (Civil Action No. 03–C–0371), Boilers B20 and B21 became subject to the NO_X emission limit of 0.08 lbs/MMBtu, based on a 12-month rolling average, by December 31, 2006 and December 31, 2003, respectively. As noted in the source's construction permit #18–RAB–05–ERC, issued on September 7, 2018, boilers B20–B23 were permanently shut down on or around April 10, 2018.

c. Federal Emission Control Measures.

Reductions in VOC and NO_X emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following:

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. On February 10, 2000 (65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements. These emission control requirements result in lower VOC and NO_X emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur in gasoline, which were phased in between 2004 and 2006. By 2006, refiners were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. EPA estimates that, when fully implemented, this rule will cut NO_X and VOC emissions from light-duty vehicles and light-duty trucks by

[5] In a December 27, 2011 rulemaking, EPA included Wisconsin in the ozone season NO_X program, addressing the 1997 ozone NAAQS (76 FR 80760).

approximately 76 percent and 28 percent, respectively. NO_X and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program are estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. As projected by these estimates and demonstrated in the on-road emission modeling for the Kenosha portion, the majority of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as remaining older vehicles are replaced with newer, compliant model years.

Tier 3 Emission Standards for Vehicles and Gasoline Sulfur Standards. On April 28, 2014 (79 FR 23414), EPA promulgated Tier 3 motor vehicle emission and fuel standards to reduce both tailpipe and evaporative emissions and to further reduce the sulfur content in fuels. The rule is being phased in between 2017 and 2025. Tier 3 sets new tailpipe standards for the sum of VOC and NO_X and for particulate matter. The VOC and NO_X tailpipe standards for light-duty vehicles represent approximately an 80 percent reduction from today's fleet average and a 70 percent reduction in per-vehicle particulate matter (PM) standards. Heavy-duty tailpipe standards represent about a 60 percent reduction in both fleet average VOC and NO_X and per-vehicle PM standards. The evaporative emissions requirements in the rule will result in approximately a 50 percent reduction from current standards and apply to all light-duty and on-road gasoline-powered heavy-duty vehicles. Finally, the rule lowered the sulfur content of gasoline to an annual average of 10 ppm by January 2017. As projected by these estimates and demonstrated in the on-road emission modeling for the Kenosha portion, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Heavy-Duty Diesel Engine Rules. In July 2000, EPA issued a rule for on-road heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NO_X, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NO_X and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rule. Nationally, EPA estimated that by 2015 NO_X and VOC emissions would decrease by 1,260,000 tons and 54,000 tons, respectively. Nationally, EPA estimated that by 2030 NO_X and VOC emissions will decrease by 2,570,000 tons and 115,000 tons, respectively. As projected by these estimates and demonstrated in the on-road emission modeling for the Kenosha portion, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Non-road Diesel Rule. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for non-road diesel engines and sulfur reductions in non-road diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. Emission standards were phased in for the 2008 through 2015 model years based on engine size. The SO_2 limits for non-road diesel fuels were phased in from 2007 through 2012. EPA estimates that when fully implemented, compliance with this rule will cut NO_X emissions from these non-road diesel engines by approximately 90 percent. As projected by these estimates and demonstrated in the non-road emission modeling for the Kenosha portion, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Non-road Spark-Ignition Engines and Recreational Engine Standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model year 2004 through 2012. When fully implemented, EPA estimates an overall 72 percent reduction in VOC emissions from these engines and an 80 percent reduction in NO_X emissions. As projected by these estimates and demonstrated in the non-road emission modeling for the Kenosha portion, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896), EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards apply beginning in 2011, are expected to result in a 15 to 25 percent reduction in NO_X emissions from these engines. Final Tier 3 emission standards apply beginning in 2016 and are expected to result in approximately an 80 percent reduction in NO_X from these engines. As projected by these estimates and demonstrated in the non-road emission modeling for the Kenosha portion, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

2. Emission reductions.

Wisconsin is using a 2011 emissions inventory as the nonattainment year. This is appropriate because it was one of the years used to designate the Chicago area as nonattainment. Wisconsin is using 2017 as the attainment year, which is appropriate because it is one of the years in the 2017–2019 period used to demonstrate attainment.

Wisconsin created the point source emission inventory using annually reported point source emissions, the EPA's Clean Air Markets Division database and approved EPA techniques for emissions calculation (*e.g.,* emission factors) for 2011 and 2017 point source emissions from state inventory databases.

There is one EGU point source facility located in the Kenosha portion. For this facility, Wisconsin used the ozone season NO_X emissions divided by the days of reported operation during the ozone season to represent summer day emissions. The VOC summer day emissions were derived by multiplying the facility's ozone season heat input by an average VOC emission rate.

Wisconsin tabulated the 2011 and 2017 emissions inventories for non-EGU point sources using the emissions data reported annually by each facility operator to the Wisconsin air emissions inventory (AEI). The AEI calculates emissions for each individual emissions unit or process line by multiplying fuel or process throughput by the appropriate emission factor that is derived from mass balance analysis, stack testing, continuous emissions monitoring, engineering analysis, or EPA's Factor Information Retrieval database. The emission calculations in the AEI also account for any operating control equipment.

For the area sources, emissions inventory estimates were based on the 2011 NEI version 2, except for the residential and commercial portable fuel containers and Stage II refueling categories as described below. Emission calculation methodologies used in developing 2011 nonpoint emissions

inventory are available in the EPA's 2011 NEI, version 2 Technical Support Document.

For the 2017 attainment year, area source emissions inventory estimates were based on the data interpolation between the 2016 base year and the 2023 projection year of EPA's 2016 version 1 emissions modeling platform. Methodologies used to develop 2016 and 2023 emissions modeling data are available in the EPA's National Emissions Inventory Collaborative Wiki v1 release page.

On-road mobile source emissions were developed in conjunction with the Southeastern Wisconsin Regional Planning Commission (SEWRPC), the Metropolitan Planning Organization for the Kenosha portion. On-road mobile sources are motorized mobile equipment that are primarily used on public roadways. Examples of on-road mobile sources include cars, trucks, buses and road motorcycles. Wisconsin used the Motor Vehicle Emission Simulator (MOVES), the EPA's recommended mobile source model, to develop on-road emissions rates. The version used was MOVES2014b.

The modeling inputs to MOVES include detailed transportation data (*e.g.,* vehicle-miles of travel by vehicle class, road class and hour of day, and average speed distributions), which were provided by SEWRPC.

The methodology for the 2011 and 2017 non-road emissions categories were developed using the EPA's MOVES2014b model, using the same summer day temperatures used for the on-road modeling. The model was run for Kenosha County for the months of June, July and August. Summer day emissions were calculated by dividing the total emissions over these three months by 92 (the number of days in the three months). Emissions were then allocated from the full county to the eastern Kenosha County area based on surrogates such as population, land area and water area, depending on the category.

For commercial marine, aircraft and rail locomotive (MAR) categories, the annual emissions estimates used for Kenosha County are those in the EPA's 2011 NEI version 2.

For the year 2017, the annual emissions estimates used for Kenosha County were obtained by linearly interpolating between the 2016 and 2023 values in the EPA's 2016 emissions modeling platform, version 1.

Summer day emissions for these MAR categories were estimated by dividing the annual emissions by 365. This same value was used in the EPA's 2011 version 6.3 emissions modeling platform. The allocation of the full county emissions to the eastern Kenosha County area is based on surrogates, such as population, land area and water area, depending on the MAR category.

Emissions for Illinois and Indiana were based on inventories developed by those states in 2016 for an earlier round of redesignation requests. For the current document, 2011 and 2030 emissions are directly taken from these earlier inventories, whereas 2017 and 2025 emissions were determined by interpolation from these inventories. The original inventories are in Wisconsin's 2016 redesignation request.

Using the inventories described above, Wisconsin's submittal documents changes in VOC and NO_X emissions from 2011 to 2017 for the Kenosha portion. Emissions data are shown in Tables 2 and 3.

TABLE 2—EMISSIONS REDUCTION OF NO_X EMISSIONS FOR THE ILLINOIS, INDIANA AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2011–2017

[Tons/day]

Sector	2011 nonattainment year	2017 attainment year	Emissions reduction
Illinois:			
EGU Point	67.41	29.23	38.18
Non-EGU	52.57	47.59	4.98
Area	27.14	33.60	−6.46
On-Road	296.38	177.66	118.72
Non-road	188.34	142.64	45.70
Total	631.84	430.72	201.12
Indiana:			
EGU Point	30.15	3.73	26.42
Non-EGU	66.46	55.42	11.04
Area	9.69	8.06	1.63
On-road	24.70	12.85	11.85
Non-road	12.69	6.73	5.96
Total	143.69	86.79	56.90
Wisconsin:			
EGU Point	8.71	8.55	0.16
Non-EGU	0.11	0.13	−0.02
Area	1.09	1.02	0.07
On-Road	5.35	2.81	2.54
Non-road	2.08	1.67	0.41
Total	17.35	14.19	3.17
Chicago-Naperville, IL-IN-WI 2008 ozone area:			
Illinois	631.84	430.72	201.12
Indiana	143.69	86.79	56.90
Wisconsin	17.35	14.19	3.16
Total	792.88	531.70	261.18

TABLE 3—EMISSIONS REDUCTION OF VOC EMISSIONS FOR THE ILLINOIS, INDIANA AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2011–2017

[Tons/day]

Sector	2011	2017	Emissions reduction
Illinois:			
EGU Point	0.62	0.78	−0.16
Non-EGU	47.63	44.53	3.10
Area	210.04	226.69	−16.65
On-Road	91.04	81.49	9.54
Non-road	169.58	80.564	89.02
Total	518.91	434.05	84.85
Indiana:			
EGU Point	0.63	0.20	0.43
Non-EGU	17.07	10.16	6.91
Area	18.07	19.56	−1.49
On-road	9.58	6.07	3.51
Non-road	14.19	4.06	10.13
Total	59.54	40.05	19.49
Wisconsin:			
EGU Point	0.38	0.32	0.06
Non-EGU	0.18	0.07	0.11
Area	3.76	3.49	0.27
On-Road	2.53	1.42	1.11
Non-road	1.13	0.74	0.39
Total	7.98	6.04	1.94
Chicago-Naperville, IL-IN-WI 2008 ozone area:			
Illinois	518.91	434.05	84.85
Indiana	59.54	40.05	19.49
Wisconsin	7.98	6.04	1.94
Total	586.43	480.14	106.29

As shown in Tables 2 and 3, NO_X and VOC emissions in the Kenosha portion declined by 3.17 tons/day and 1.94 tons/day, respectively, between 2011 and 2017. NO_X and VOC emissions throughout the entire Chicago area declined by 261.18 tons/day and 106.29 tons/day, respectively, between 2011 and 2017.

3. Meteorology.

Wisconsin included an analysis to further support its demonstration that the improvement in air quality between the nonattainment year violations and the attainment year is due to permanent and enforceable emission reductions and not unusually favorable meteorology. Wisconsin analyzed the maximum fourth-highest 8-hour ozone values for May, June, July, August, and September, for years 2000 to 2017.

First, the maximum 8-hour ozone concentration at each monitor in the Kenosha portion was compared to the number of days where the maximum temperature was greater than or equal to 80 °F. While there is a clear trend in decreasing ozone concentrations at all monitors, there is no such trend in the temperature data.

Wisconsin also examined the relationship between the average summer temperature for each year of the 2000–2017 period and the fourth-highest 8-hour ozone concentration. Given the similarity of ozone concentrations observed at each monitor and the regional nature of ozone formation, Wisconsin conducted this analysis using the average fourth-highest 8-hour ozone concentration from all monitors in the Kenosha portion. While there is some correlation between average summer temperatures and ozone concentrations, this correlation does not exist over the study period. The linear regression lines for each data set demonstrate that the average summer temperatures have increased over the 2000 to 2017 period, while average ozone concentrations have decreased. Because the correlation between temperature and ozone formation is well established, these data suggest that reductions in precursors are responsible for the reductions in ozone concentrations in the Kenosha portion, and not unusually favorable summer temperatures.

Finally, Wisconsin analyzed the relationship between average summertime relative humidity and average fourth-highest 8-hour ozone concentrations. The data did not show a correlation between relative humidity and ozone concentrations.

As discussed above, Wisconsin identified numerous Federal rules that resulted in the reduction of VOC and NO_X emissions from 2011 to 2017. In addition, Wisconsin's analyses of meteorological variables associated with ozone formation demonstrate that the improvement in air quality in the Kenosha portion between the year violations occurred and the year attainment was achieved is not due to unusually favorable meteorology. Therefore, EPA finds that Wisconsin has shown that the air quality improvements in the Chicago area are due to permanent and enforceable emissions reductions.

D. Does Wisconsin have a fully approvable ozone maintenance plan for the Kenosha portion?

As one of the criteria for redesignation to attainment section 107(d)(3)(E)(iv) of the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to

attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA deems necessary, to ensure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. In conjunction with its request to redesignate the Kenosha portion to attainment for the 2008 ozone NAAQS, Wisconsin submitted a SIP revision to provide for maintenance of the 2008 ozone NAAQS through 2030, more than 10 years after the expected effective date of the redesignation to attainment. As discussed below, EPA proposes to find that Wisconsin's ozone maintenance plan includes the necessary components and to approve the maintenance plan as a revision of the Wisconsin SIP.

1. Attainment inventory.

EPA is proposing to determine that the Chicago area has attained the 2008 ozone NAAQS based on monitoring data for the period of 2017–2019. Wisconsin selected 2017 as the attainment emissions inventory year to establish attainment emission levels for VOC and NO_X. The attainment emissions inventory identifies the levels of emissions in the Kenosha portion that are consistent to attainment of the 2008 ozone NAAQS. The derivation of the attainment year emissions is discussed above in section IV.C.2. of this proposed rule. The attainment level emissions, by source category, are summarized in Tables 2 and 3 above.

2. Has the state documented maintenance of the ozone standard in the Kenosha portion?

Wisconsin has demonstrated maintenance of the 2008 ozone NAAQS through 2030 by ensuring that current and future emissions of VOC and NO_X for the Kenosha portion remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA,* 375 F. 3d 537 (7th Cir. 2004). *See also* 66 FR 53094, 53099–53100 (October 19, 2001), 68 FR 25413, 25430–25432 (May 12, 2003).

Wisconsin is using emissions inventories for the years 2025 and 2030 to demonstrate maintenance. 2030 is more than 10 years after the expected effective date of the redesignation to attainment and 2025 was selected to demonstrate that emissions are not expected to spike in the interim between the attainment year and the final maintenance year. The emissions inventories were developed as described below.

Wisconsin estimated the future year point source emissions by applying growth factors to the 2017 attainment year emissions inventory. Wisconsin's 2025 area source emissions were estimated primarily by interpolating between EPA's 2023 and 2028 modeling inventories, while 2030 area source emissions were estimated by extrapolating EPA's 2023 and 2028 modeling inventories.

The methodology for the 2025 and 2030 projected non-road emissions categories were developed using the EPA's MOVES2014b model, using the same summer day temperatures used for the on-road modeling. The model was run for Kenosha County for the months of June, July and August. Summer day emissions were calculated by dividing the total emissions over these three months by 92 (the number of days in the three months). Emissions were then allocated from the full county to the eastern Kenosha County area based on surrogates such as population, land area and water area, depending on the category.

For all source categories except commercial MAR, the MOVES2014b model was run for Kenosha County at summer day temperatures, assuming the model's default growth projections.

For the three MAR categories, the 2025 and 2030 emissions were calculated by linearly interpolating or extrapolating from the 2023 and 2028 values from EPA's 2016 Emissions Modeling Platform, Version 1. To avoid underestimating 2030 emissions, if the extrapolated emissions for 2030 were less than those for 2028, the 2030 emissions were set equal to those for 2028.

On-road mobile source emissions were developed in conjunction with the SEWRPC and were calculated from emission factors produced by EPA's MOVES2014a model and data extracted from the region's travel-demand model.

Projected emissions data are shown in Tables 4 through 5 below.

TABLE 4—PROJECTED EMISSIONS OF NO_X EMISSIONS FOR THE ILLINOIS, INDIANA, AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2025 AND 2030

[Tons/day]

Sector	2017 attainment year	2025 interim year	2030 maintenance year	Emissions reduction 2017–2030
Illinois:				
EGU Point	29.23	49.56	60.75	−31.52
Non-EGU	47.59	47.68	48.54	−0.95
Area	33.60	33.83	33.97	−0.37
On-Road	177.66	85.04	65.66	112.00
Non-road	142.64	114.83	106.92	35.72
Total	430.72	330.94	315.84	114.88
Indiana:				
EGU Point	3.73	0.34	0.34	3.39
Non-EGU	55.42	58.49	59.30	−3.88
Area	8.06	7.13	6.68	1.38
On-road	12.85	8.53	6.62	6.23
Non-road	6.73	4.28	3.22	3.51

TABLE 4—PROJECTED EMISSIONS OF NO_X EMISSIONS FOR THE ILLINOIS, INDIANA, AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2025 AND 2030—Continued

[Tons/day]

Sector	2017 attainment year	2025 interim year	2030 maintenance year	Emissions reduction 2017–2030
Total	86.79	78.77	76.16	10.63
Wisconsin:				
EGU Point	8.55	0	0	8.55
Non-EGU	0.13	0.16	0.16	−0.03
Area	1.02	1.00	0.99	0.03
On-Road	2.81	1.47	1.14	1.67
Non-road	1.67	1.24	1.16	0.52
EGU Emission credit		7.22	7.22	7.22
Total	14.19	3.87	3.44	10.75
Chicago-Naperville, IL-IN-WI 2008 ozone area:				
Illinois	430.72	330.94	315.84	114.88
Indiana	86.79	78.77	76.16	10.63
Wisconsin	14.19	3.87	3.45	10.75
Total	531.70	413.58	395.45	136.26

TABLE 5—PROJECTED EMISSIONS OF VOC EMISSIONS FOR THE ILLINOIS, INDIANA, AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2025 AND 2030

[Tons/day]

Sector	2017 attainment year	2025 interim year	2030 maintenance year	Emissions reduction 2017–2030
Illinois:				
EGU Point	0.78	2.12	2.64	−1.86
Non-EGU	44.53	44.53	43.57	0.86
Area	226.69	222.19	221.40	5.29
On-Road	81.49	52.85	42.64	38.93
Non-road	80.56	79.07	82.27	−1.71
Total	434.05	399.90	392.52	41.53
Indiana:				
EGU Point	0.20	0.07	0.06	0.14
Non-EGU	10.16	11.70	11.57	−1.41
Area	19.56	19.76	19.86	−0.30
On-road	6.07	4.91	3.77	2.30
Non-road	4.06	3.58	3.38	0.68
Total	40.05	40.02	38.64	1.41
Wisconsin:				
EGU Point	0.32	0.00	0.00	0.32
Non-EGU	0.07	0.15	0.15	−0.08
Area	3.49	3.48	3.50	−0.01
On-Road	1.42	0.95	0.73	0.69
Non-road	0.74	0.61	0.60	0.14
EGU Emission credit		0.37	0.37	0.37
Total	6.04	5.19	4.98	1.06
Chicago-Naperville, IL-IN-WI 2008 ozone area:				
Illinois	434.05	399.90	392.52	41.53
Indiana	40.05	40.02	38.64	1.41
Wisconsin	6.04	5.19	4.98	1.06
Total	480.14	445.11	436.14	44.00

In summary, Wisconsin's maintenance demonstration for the Kenosha portion shows maintenance of the 2008 ozone NAAQS by providing emissions information to support the demonstration that future emissions of NO_X and VOC will remain at or below 2017 emission levels when considering both future source growth and implementation of future controls. As shown in Tables 4 and 5, emissions in the Kenosha portion are projected to decrease by 10.74 tons/day and 1.06 tons/day, respectively, between 2017 and 2030. NO_X and VOC emissions in the entire Chicago area are projected to decrease by 136.26 tons/day and 44.00 tons/day, respectively, between 2017 and 2030.

3. Continued air quality monitoring.

Wisconsin has committed to continue to operate the ozone monitors listed in Table 1 above. Wisconsin has committed to consult with EPA prior to making changes to the existing monitoring network should changes become necessary in the future. Wisconsin remains obligated to meet monitoring requirements, to continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the Air Quality System (AQS) in accordance with Federal guidelines.

4. Verification of continued attainment.

Wisconsin has confirmed that it has the legal authority to enforce and implement the requirements of the maintenance plan for the Kenosha portion. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. Wisconsin will continue to operate the current ozone monitors located in the Kenosha portion. There are no plans to discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions in the network approved by the EPA.

In addition, to track future levels of emissions, Wisconsin will continue to develop and submit to EPA updated emission inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51, subpart A, and 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Wisconsin was compiled for 2014. Point source facilities covered by Wisconsin's emission statement rule, Wisconsin Administrative Code NR 438, will continue to submit VOC and NO_X emissions on an annual basis.

5. What is the contingency plan for the Kenosha portion?

Section 175A of the CAA requires that the state adopt a maintenance plan, as a SIP revision, that includes such contingency measures as EPA deems necessary to ensure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: The contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, Wisconsin has adopted a contingency plan for the Kenosha portion to address possible future ozone air quality violations. The contingency plan adopted by Wisconsin has two levels of response, a warning level response and an action level response.

In Wisconsin's plan, a warning level response will be triggered when an annual fourth highest monitored value of 0.075 ppm or higher is monitored within the maintenance area. A warning level response will require Wisconsin to conduct a study. The study would include the two elements. The first element would assess whether actual emissions have deviated significantly from the emissions projections contained in this maintenance plan for the Kenosha portion, along with an evaluation of which sectors and states are responsible for any emissions increases. Second, Wisconsin would investigate whether unusual meteorological conditions during the high ozone year led to the high monitored ozone concentrations. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend. The study will consider ease and timing of implementation as well as economic and social impacts and will be completed no later than May 1st of the next season. Implementation of necessary controls in response to a warning level response trigger will take place no later than 18 months from the completion of the study.

In Wisconsin's plan, an action level response would be triggered if a three-year design value exceeds the level of the 2008 ozone NAAQS (0.075 ppm). When an action level response is triggered, Wisconsin will determine what additional control measures are needed to ensure future attainment of the 2008 ozone NAAQS. Control measures selected will be adopted and implemented within 18 months from the close of the ozone season that prompted the action level. Wisconsin may also consider if significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner and would thus constitute an adequate contingency measure response.

Wisconsin included the following list of potential contingency measures in its maintenance plan. However, Wisconsin is not limited to the measures on this list:

1. Anti-idling control program for mobile sources, targeting diesel vehicles
2. Diesel exhaust retrofits
3. Traffic flow improvements
4. Park and ride facilities
5. Rideshare/carpool program
6. Expansion of the vehicle emissions testing program

To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan. Wisconsin notes that because it is not possible to determine what control measures will be appropriate in the future, the list is not comprehensive.

EPA has concluded that Wisconsin's maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. In addition, as required by section 175A(b) of the CAA, Wisconsin has committed to submit to EPA an updated ozone maintenance plan eight years after redesignation of the Kenosha portion to cover an additional ten years beyond the initial 10-year maintenance period. Thus, EPA finds that the maintenance plan SIP revision submitted by Wisconsin for the Kenosha portion meets the requirements of section 175A of the CAA, and EPA proposes to approve it as a revision to the Wisconsin SIP.

V. Has the state adopted approvable motor vehicle emission budgets?

A. Motor Vehicle Emission Budgets

Under section 176(c) of the CAA, new transportation plans, programs or projects that receive Federal funding or support, such as the construction of new highways, must ''conform'' to (*i.e.,* be consistent with) the SIP. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality problems, or delay timely attainment of the NAAQS or interim air quality milestones. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and

procedures for demonstrating and assuring conformity of transportation activities to a SIP. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS, but that have been redesignated to attainment with an approved maintenance plan for the NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs for nonattainment areas and maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas. *See* the SIP requirements for the 2008 ozone NAAQS in EPA's December 6, 2018 implementation rule (83 FR 62998). These control strategy SIPs (including reasonable further progress plans and attainment plans) and maintenance plans must include MVEBs for criteria pollutants, including ozone and their precursor pollutants (VOC and NO_X) to address pollution from on-road transportation sources. The MVEBs are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance. *See* 40 CFR 93.101.

Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment must be established, at minimum, for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB, if needed, subsequent to initially establishing a MVEB in the SIP.

As discussed earlier, Wisconsin's maintenance plan includes NO_X and VOC MVEBs for the Kenosha for 2030 and 2025, the last year of the maintenance period and an interim year. The MVEBs were developed as part of an interagency consultation process which includes Federal, state, and local agencies. The MVEBs were clearly identified and precisely quantified. These MVEBs, when considered together with all other emissions sources, are consistent with maintenance of the 2008 ozone NAAQS.

TABLE 8—MVEBS FOR THE KENOSHA 2008 OZONE MAINTENANCE PLAN

[Tons/day]

Pollutant	2025 MVEB	2030 MVEB
NO_X	1.47	1.17
VOC	0.95	0.73

EPA finds adequate and is proposing to approve the MVEBs for use to determine transportation conformity in the Kenosha portion of the Chicago area, because EPA has determined that the area can maintain attainment of the 2008 ozone NAAQS for the relevant maintenance period with mobile source emissions at the levels of the MVEBs.

B. What is a safety margin?

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in Tables 4 and 5 above, the emissions in the Kenosha portion are projected to have safety margins of 171.38 tons/day for NO_X and 63.19 tons/day for VOC in 2030 (the difference between the attainment year, 2017, emissions and the projected 2030 emissions for all sources in the Kenosha portion. Similarly, there is a safety margin of 31.63 tons/day for NO_X and 14.54 tons/day for VOC in 2025. Even if emissions exceeded projected levels by the full amount of the safety margin, the counties would still demonstrate maintenance since emission levels would equal those in the attainment year.

Wisconsin is not allocating any of the safety margin to the mobile source sector. Wisconsin can request an allocation to the MVEBs of the available safety margins reflected in the demonstration of maintenance in a future SIP revision.

VI. VOC RACT in the Kenosha Portion

Sections 172(c)(1) and 182(b)(2) of the CAA require states to implement RACT in ozone nonattainment areas classified as moderate (and higher). Specifically, these areas are required to implement RACT for all major VOC and NO_X emissions sources and for all sources covered by a Control Techniques Guideline (CTG). A CTG is a document issued by EPA which establishes a ''presumptive norm'' for RACT for a specific VOC source category. States must submit rules, or negative declarations when no such sources exist for CTG source categories.

EPA's SIP Requirements Rule for the 2008 ozone NAAQS indicates that states may meet RACT through the establishment of new or more stringent requirements that meet RACT control levels, through a certification that previously adopted RACT controls in their SIPs approved by EPA for a prior ozone NAAQS also represent adequate RACT control levels for attainment of the 2008 ozone NAAQS, or with a combination of these two approaches. In addition, a state may submit a negative declaration in instances where there are no CTG sources.

Wisconsin previously addressed RACT requirements in the Kenosha portion in developing attainment plans for the 1979 and 1997 ozone standards. Wisconsin has previously adopted RACT rules for VOC emission sources in the nonattainment areas under Wisconsin Administrative Code NR 420. Wisconsin has evaluated the previously adopted regulations and determined that these rules still satisfy RACT. Wisconsin's submittal describes the VOC RACT program for the Kenosha portion. The submittal provided a list of the CTGs for which RACT requirements have been codified in the Wisconsin Administrative Code.

Wisconsin has not adopted VOC RACT regulations for four CTGs: Shipbuilding and ship repair, aerospace manufacturing, fiberglass boat manufacturing, and the oil and natural gas industry. In addition, while Wisconsin has adopted rules to cover industrial adhesive use, metal and plastic parts coatings, and automobile and light-duty truck manufacturing, the Wisconsin Administrative Code does not reflect the most recently published CTGs for these categories.

Wisconsin performed an applicability analysis for these categories in the Kenosha portion. Wisconsin's analysis took the following steps to make this determination: First, Wisconsin relied on the Wisconsin Air Emissions Inventory to create a list of all the VOC emitting facilities in the Kenosha portion. Wisconsin searched the list for facilities having the applicable CTG Standard Industrial Classification (SIC) codes. Second, Wisconsin searched the Wisconsin Air Resource Program database, which contains facility and emissions information about all Wisconsin companies that have obtained an air pollution control permit for sources located within the partial county nonattainment area with the applicable SIC codes. Third, Wisconsin searched the membership directories found on the applicable SIC code organizations' websites. Finally, Wisconsin searched the ReferenceUSA database for facilities located within the

partial county nonattainment area with the SIC codes listed above.

Wisconsin's analysis determined that there are no facilities for the following CTGs in the Kenosha nonattainment area: Shipbuilding and ship repair, aerospace manufacturing, fiberglass boat manufacturing, oil and natural gas industry, miscellaneous industrial adhesives, and automobile and light-duty truck assembly coatings. Wisconsin provided negative declarations for these CTG categories.

For the remaining CTG category, miscellaneous metal and plastic parts coatings, Wisconsin's analysis identified three facilities in the Kenosha County 2008 ozone nonattainment area. For two of the facilities, KKSP Precision Machining LLC (Facility Identification 230198760) and IEA, Inc. (Facility Identification 230167520), Wisconsin determined that the emissions were well below the CTG applicability threshold of 15 lb VOC per day, or equivalently, 3 tons per year. The remaining facility, Insinkerator (Facility Identification 230167630), was found to have CTG-applicable emissions of 3.1 tons per year in 2017, which is above the CTG threshold. Insinkerator entered into an Administrative Order (AM–20–01) with Wisconsin which establishes permanent and enforceable emission limits, among other requirements, on this facility, which are consistent with the control requirements and limits set forth in the 2008 Miscellaneous Metal and Plastic Parts Coatings CTG. AM–20–01 was submitted to EPA for incorporation into the SIP on February 12, 2020.

Wisconsin has certified that the VOC RACT rules previously adopted by the state and approved into Wisconsin's SIP continue to meet VOC RACT requirements for the Kenosha portion under the 2008 ozone NAAQS. Wisconsin has adequately documented its analysis of sources in the area to support its negative declarations for the shipbuilding and ship repair, aerospace manufacturing, fiberglass boat manufacturing, oil and natural gas industry, miscellaneous industrial adhesives, and automobile and light-duty truck assembly coatings categories. Wisconsin's analysis of sources in the area and subsequent documentation of potential applicability under the 2008 Miscellaneous Metal and Plastic Parts Coatings CTG properly identified Insinkerator as the only facility which would be subject to the requirements of this CTG. Finally, Wisconsin has submitted for incorporation into the SIP Administrative Order (AM–20–01), which contains limits and associated requirements for Insinkerator that are consistent with those set forth in the CTG. EPA finds Wisconsin's VOC RACT SIP submittals to be approvable as meeting the moderate VOC RACT requirements of section 182(b)(2) of the CAA.

VII. Proposed Actions

EPA is proposing to determine that the Chicago area is attaining the 2008 ozone NAAQS, based on quality-assured and certified monitoring data for 2017–2019. EPA is proposing to approve Wisconsin's January 21, 2020 and February 12, 2020 VOC RACT submittals as meeting the moderate SIP requirements of section 182(b)(2) of the CAA. EPA is proposing to determine that upon final approval of Wisconsin's VOC RACT submittals, the Kenosha portion will have met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Kenosha portion of the Chicago-Naperville, IL-IN-WI area from nonattainment to attainment for the 2008 ozone NAAQS. EPA is also proposing to approve, as a revision to the Wisconsin SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Kenosha portion in attainment of the 2008 ozone NAAQS through 2030. Finally, EPA finds adequate and is proposing to approve the newly-established 2025 and 2030 MVEBs for the Kenosha portion.

VIII. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Wisconsin Administrative Order AM–20–01, effective January 9, 2020. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the ''For Further Information Contact'' section of this preamble for more information).

IX. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of

Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: April 9, 2020.

Cheryl Newton,

Deputy Regional Administrator, Region 5.

[FR Doc. 2020–07924 Filed 4–16–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 320

[EPA–HQ–OLEM–2019–0086; FRL–10008–23–OLEM]

RIN 2050–AH05

Financial Responsibility Requirements Under CERCLA Section 108(b) for Facilities in the Chemical Manufacturing Industry; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for the proposed rule entitled ''Financial Responsibility Requirements under CERCLA Section 108(b) for Classes of Facilities in the Chemical Manufacturing Industry.'' This proposal was published on February 21, 2020, and the public comment period was scheduled to end on April 21, 2020. However, a number of public interest groups have requested additional time to develop and submit comments on the proposal. In response to the request for additional time, EPA is extending the comment period through May 6, 2020.

DATES: Comments must be received on or before May 6, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2019–0086, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* 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. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: For more information on this document, contact Charlotte Mooney, U.S. Environmental Protection Agency, Office of Resource Conservation and Recovery, Mail Code 5303P, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone (703) 308–7025 or (email) *mooney.charlotte@epa.gov.*

SUPPLEMENTARY INFORMATION: On February 21, 2020, EPA published in the **Federal Register** a proposal to not impose financial responsibility requirements for facilities in the Chemical Manufacturing industry under Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Section 108(b) addresses the promulgation of regulations that require classes of facilities to establish and maintain evidence of financial responsibility consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances.

The comment period for the proposed rule was scheduled to end on April 21, 2020. Since publication, EPA has received a request from several public interest groups to extend that comment period to allow for additional time to develop comments on the proposed rule due to general disruptions associated with the COVID–19 pandemic.

After considering this request for additional time, EPA has decided to extend the comment period until May 6, 2020.

List of Subjects in 40 CFR Part 320

Environmental protection, Financial responsibility, Hazardous substances, Chemicals.

Dated: April 10, 2020.

Peter Wright,

Assistant Administrator, Office of Land and Emergency Management.

[FR Doc. 2020–07983 Filed 4–16–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2020–0138; FRL–10007–50]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances (20–4.B)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for chemical substances which are the subject of premanufacture notices (PMNs). This action would require persons to notify EPA at least 90 calendar days before commencing manufacture (defined by statute to include import) or processing of any of these chemical substances for an activity that is designated as a significant new use by this proposed rule. This action would further require that persons not commence manufacture or processing for the significant new use until they have submitted a Significant New Use Notice, and EPA has conducted a review of the notice, made an appropriate determination on the notice under TSCA, and has taken any risk management actions as are required as a result of that determination.

DATES: Comments must be received on or before May 18, 2020.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2020–0138, 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

Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 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.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this proposed rule. 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:

• Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.,* chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import provisions promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, which would include the SNUR requirements should these proposed rules be finalized. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, pursuant to 40 CFR 721.20, any persons who export or intend to export a chemical substance that is the subject of this proposed rule on or after May 18, 2020 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Background

A. What action is the Agency taking?

EPA is proposing these SNURs under TSCA section 5(a)(2) for chemical substances which were the subjects of PMNs P–18–59, P–18–60, and P–18–381. These proposed SNURs would require persons who intend to manufacture or process any of these chemical substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

The record for the proposed SNURs on these chemicals was established as docket EPA–HQ–OPPT–2020–0138. That record includes information considered by the Agency in developing these proposed SNURs.

B. What is the Agency's authority for taking this action?

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four TSCA section 5(a)(2) factors listed in Unit III. In the case of a determination other than not likely to present unreasonable risk, the applicable review period must also expire before manufacturing or processing for the new use may commence.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. Pursuant to 40 CFR 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A) (15 U.S.C. 2604(a)(1)(A)). In particular, these requirements include the information submission requirements of TSCA sections 5(b) and 5(d)(1) (15 U.S.C. 2604(b) and 2604(d)(1)), the exemptions authorized by TSCA sections 5(h)(1), 5(h)(2), 5(h)(3), and 5(h)(5) and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the use is not likely to present an unreasonable risk of injury under the conditions of use for the chemical substance or take such regulatory action as is associated with an alternative determination before the manufacture or processing for the significant new use can commence. If EPA determines that the use is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

III. Significant New Use Determination

TSCA section 5(a)(2) states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

• The projected volume of manufacturing and processing of a chemical substance.

• The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.

• The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.

• The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In determining what would constitute a significant new use for the chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, and potential human exposures and environmental releases that may be associated with the conditions of use of the substances, in the context of the four bulleted TSCA section 5(a)(2) factors listed in this unit. During its review of these chemicals, EPA identified certain conditions of use that are not intended by the submitters, but reasonably foreseen to occur. EPA is proposing to designate those reasonably foreseen conditions of use as significant new uses.

IV. Substances Subject to This Proposed Rule

EPA is proposing significant new use and recordkeeping requirements for chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the SNUR.
- Potentially Useful Information. This is information identified by EPA that would help characterize the potential health and/or environmental effects of the chemical substance in support of a request by the PMN submitter to modify the TSCA Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by the SNUR.
- CFR citation assigned in the regulatory text section of these proposed rules.

The regulatory text section of these proposed rules specifies the activities designated as significant new uses. Certain new uses, including production volume limits and other uses designated in the proposed rules, may be claimed as CBI.

The chemical substances that are the subject of these proposed SNURs are undergoing premanufacture review. In addition to those conditions of use intended by the submitter, EPA has identified certain other reasonably foreseen conditions of use. EPA has preliminarily determined that the chemicals under their intended conditions of use are not likely to present an unreasonable risk. However, EPA has not assessed risks associated with the reasonably foreseen conditions of use for these chemicals. EPA is proposing to designate these reasonably foreseen and other potential conditions of use as significant new uses. As a result, before those conditions of use can occur, they must first go through a separate, subsequent EPA review and determination process associated with a SNUN.

The substances subject to these proposed rules are as follows:

PMN Number: P–18–59

Chemical name: Butanoic acid, 4-(dimethylamino)-, ethyl ester.

CAS number: 22041–23–2.

Basis for action: The PMN states that the use of the substance will be as an intermediate. Based on the physical/chemical properties of the PMN substance and SAR analysis of test data on analogous substances, EPA has identified concerns for skin, eye, and respiratory tract irritation; reproductive/developmental toxicity; respiratory tract effects; and systemic toxicity if the chemical substance is used in ways other than as intended by the PMN submitter. Other conditions of use of the PMN substance that EPA intends to assess before they occur include the following:

- Use other than as an intermediate.
- Use of the PMN substance without a NIOSH-certified respirator with an assigned protection factor of at least 1000.

The proposed SNUR would designate as a ''significant new use'' these conditions of use.

Potentially useful information: EPA has determined that certain information may be potentially useful to characterize the health effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has determined that workplace exposure monitoring would help characterize the potential health effects of the PMN substance.

CFR citation: 40 CFR 721.11463.

PMN Number: P–18–60

Chemical name: 1-Butanaminium, 4-amino-N-(2-hydroxy-3-sulfopropyl)-N,N-dimethyl-4-oxo-, N-coco alkyl derivs., inner salts.

CAS number: 2041102–83–2.

Basis for action: The PMN states that the use of the substance will be as a surfactant for liquid dish, liquid laundry, and industrial hand wash. Based on the physical/chemical properties of the PMN substance and SAR analysis of test data on the PMN substance and analogous substances, EPA has identified concerns for skin irritation, eye irritation, reproductive toxicity, specific target organ toxicity, and aquatic toxicity if the chemical substance is used in ways other than as intended by the PMN submitter. Other conditions of use of the PMN substance that EPA intends to assess before they occur include the following:

- Use other than as described in the PMN.
- Manufacture or processing of the substance in a manner that results in inhalation exposure.
- Release of a manufacture, processing or use stream containing the PMN substance to water exceeding a surface water concentration of 7.3 ppb.

The proposed SNUR would designate as a ''significant new use'' these conditions of use.

Potentially useful information: EPA has determined that certain information may be potentially useful to characterize the health and environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. EPA has determined that the results of pulmonary effects and aquatic toxicity testing would help characterize the potential health and environmental effects of the PMN substance.

CFR citation: 40 CFR 721.11464.

PMN Number: P–18–381

Chemical name: Indium Manganese Yttrium Oxide.

CAS number: 1239902–45–4.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be used as a pigment in exterior paints and plastics. Based on the physical/chemical properties of the PMN substance and SAR analysis of test data on the PMN substance and analogous substances, EPA has identified concerns for lung effects and neurotoxicity if the chemical substance is used in ways other than as intended by the PMN submitter. Other conditions of use of the PMN substance that EPA intends to assess before they occur include the following:

- Use other than the confidential use described in the PMN.
- Manufacture or processing in a manner that results in inhalation exposure.
- Use in a consumer product that is spray applied.

The proposed SNUR would designate as a ''significant new use'' these conditions of use.

Potentially useful information: EPA has determined that certain information may be potentially useful to characterize the health and environmental effects of the PMN substance if a manufacturer or processor is considering submitting a SNUN for a significant new use that

would be designated by this proposed SNUR. EPA has determined that the results of pulmonary effects testing would help characterize the potential health effects of the PMN substance.

CFR citation: 40 CFR 721.11465.

V. Rationale and Objectives of the Proposed Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are the subject of these proposed SNURs and as further discussed in Unit IV, EPA identified certain other reasonably foreseen conditions of use, in addition to those conditions of use intended by the submitter. EPA has preliminarily determined that these chemicals under the intended conditions of use are not likely to present an unreasonable risk. However, EPA has not assessed risks associated with the reasonably foreseen conditions of use. EPA is proposing to designate these reasonably foreseen and other potential conditions of use as significant new uses. As a result, before those conditions of use can occur, they must first go through a separate, subsequent EPA review and determination process associated with a SNUN.

B. Objectives

EPA is proposing these SNURs because the Agency wants:

- To have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- To be obligated to make a determination under TSCA section 5(a)(3) regarding the use described in the SNUN, under the conditions of use. The Agency will either determine under TSCA section 5(a)(3)(C) that the significant new use is not likely to present an unreasonable risk, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of use, or make a determination under TSCA section 5(a)(3) (A) or (B) and take the required regulatory action associated with the determination, before manufacture or processing for the significant new use of the chemical substance can occur.
- To be able to complete its review and determination on each of the PMN substances, while deferring analysis on the significant new uses proposed in these rules unless and until the Agency receives a SNUN.

Issuance of a proposed SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Inventory. Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at *https://www.epa.gov/tsca-inventory.*

VI. Applicability of the Proposed Rules to Uses Occurring Before the Effective Date of the Final Rule

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this proposed rule were undergoing premanufacture review at the time of signature of this proposed rule and were not on the TSCA Inventory. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for the chemical substances subject to these proposed SNURs, EPA concludes that the proposed significant new uses are not ongoing.

EPA designates April 2, 2020 as the cutoff date for determining whether the new use is ongoing. The objective of EPA's approach is to ensure that a person cannot defeat a SNUR by initiating a significant new use before the effective date of the final rule.

Persons who begin commercial manufacture or processing of the chemical substances for a significant new use identified on or after that date would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and EPA would have to take action under TSCA section 5 allowing manufacture or processing to proceed. In developing this proposed rule, EPA has recognized that, given EPA's general practice of posting proposed rules on its website a week or more in advance of **Federal Register** publication, this objective could be thwarted even before **Federal Register** publication of the proposed rule.

VII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require development of any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, Order or consent agreement under TSCA section 4 (15 U.S.C. 2603), then TSCA section 5(b)(1)(A) (15 U.S.C. 2604(b)(1)(A)) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, Order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV. lists potentially useful information for all SNURs listed here. Descriptions are provided for informational purposes. The potentially useful information identified in Unit IV. will be useful to EPA's evaluation in the event that someone submits a SNUN for the significant new use. Companies who are considering submitting a SNUN are encouraged, but not required, to develop the information on the substance, which may assist with EPA's analysis of the SNUN.

EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

The potentially useful information described in Unit IV. may not be the only means of providing information to evaluate the chemical substance associated with the significant new uses. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.

VIII. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notification requirements and

EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 721.25. E–PMN software is available electronically at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca.*

IX. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this proposed rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2020–0138.

X. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations-and-executive-orders.*

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

This proposed rule would establish SNURs for 3 new chemical substances that were the subject of PMNs. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act (PRA)

According to the PRA, 44 U.S.C. 3501 *et seq.,* an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Regulatory Support Division, Office of Mission Support (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

Pursuant to section 605(b) of the RFA, 5 U.S.C. 601 *et seq.,* the Agency hereby certifies that promulgation of this proposed SNUR would not have a significant adverse economic impact on a substantial number of small entities. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a ''significant new use.'' Because these uses are ''new,'' based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was seven in Federal fiscal year (FY) 2013, 13 in FY2014, six in FY2015, 12 in FY2016, 13 in FY2017, and 11 in FY2018, only a fraction of these were from small businesses. In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from $16,000 to $2,800. This lower fee reduces the total reporting and recordkeeping of cost of submitting a SNUN to about $10,116 for qualifying small firms. Therefore, the potential economic impacts of complying with this proposed SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this proposed rule. As such, EPA has determined that this proposed rule does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1531–1538 *et seq.*).

E. Executive Order 13132: Federalism

This action would not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule would not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This proposed rule would not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 (65 FR 67249, November 9, 2000), do not apply to this proposed rule.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d), 15 U.S.C. 272 note, does not apply to this action.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994).

List of Subjects

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: March 31, 2020.

Tala Henry,

Deputy Director, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Add §§ 721.11463 through 721.11465 to subpart E to read as follows:

Subpart E—Significant New Uses for Specific Chemical Substances

* * * * *

Sec.

721.11463 Butanoic acid, 4-(dimethylamino)-, ethyl ester.

721.11464 1-Butanaminium, 4-amino-N-(2-hydroxy-3-sulfopropyl)-N,N-dimethyl-4-oxo-, N-coco alkyl derivs., inner salts.

721.11465 Indium manganese yttrium oxide.

* * * * *

§ 721.11463 Butanoic acid, 4-(dimethylamino)-, ethyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as butanoic acid, 4-(dimethylamino)-, ethyl ester (PMN P–18–59; CAS No. 22041–23–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), when determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (5)(respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor of at least 1,000, (a)(6)(v), (b)(concentration set at 1.0%), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (d) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11464 1-Butanaminium, 4-amino-N-(2-hydroxy-3-sulfopropyl)-N,N-dimethyl-4-oxo-, N-coco alkyl derivs., inner salts.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-butanaminium, 4-amino-N-(2-hydroxy-3-sulfopropyl)-N,N-dimethyl-4-oxo-, N-coco alkyl derivs., inner salts. (PMN P–18–60, CAS No. 2041102–83–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j). It is a significant new use to manufacture or process the substance in a manner that results in inhalation exposure.

(ii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=7.3.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

§ 721.11465 Indium Manganese Yttrium Oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as indium manganese yttrium oxide (PMN P–18–381; CAS No. 1239902–45–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j). It is a significant new use to manufacture or process the substance in a manner that results in inhalation exposure. It is a significant new use to use the substance in a consumer product that is spray applied.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

[FR Doc. 2020–08075 Filed 4–16–20; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 200410–0109]

RIN 0648–BJ53

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2020 Harvest Specifications for Pacific Whiting, Cowcod and Shortbelly Rockfish and 2020 Pacific Whiting Tribal Allocation

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would establish 2020 harvest specifications and management measures for Pacific whiting, shortbelly rockfish and cowcod taken in the U.S. exclusive economic zone off the coasts of Washington, Oregon and California consistent with the Magnuson-Stevens Fishery Conservation and Management Act, the Pacific Whiting Act of 2006, and other applicable laws. This rule proposes 2020 harvest specifications for Pacific whiting including the U.S. and coastwide Total Allowable Catch (TAC), the 2020 tribal allocation for the Pacific whiting fishery, allocations for three commercial whiting sectors, and set-asides for Pacific whiting research and incidental mortality in other fisheries. The proposed rule would also adjust the 2020 harvest specifications for shortbelly rockfish and cowcod. The proposed measures are intended to help prevent overfishing, achieve optimum yield, and ensure that management measures are based on the best scientific information available.

DATES: Comments on this proposed rule must be received no later than May 4, 2020.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2020–0027 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0027* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Barry Thom, c/o Stacey Miller, Sustainable Fisheries Division, West Coast Region, NMFS, 1201 NE Lloyd Blvd. Suite 1100, Portland, OR 97232.

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

Electronic Access

This proposed rule is accessible via the internet at the Office of the Federal Register website at *https://www.federalregister.gov.* Background information and documents including an integrated analysis for this action (Analysis), which addresses the statutory requirements of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the National Environmental Policy Act, Presidential Executive Order 12866, and the Regulatory Flexibility Act are available at the NMFS website at *https://www.fisheries.noaa.gov/action/2020-harvest-specifications-pacific-whiting-cowcod-and-shortbelly-rockfish-and-2020-pacific* and at the Pacific Fishery Management Council's website at *http://www.pcouncil.org/.*

FOR FURTHER INFORMATION CONTACT: Stacey Miller, phone: 503–231–6290, and email: *Stacey.Miller@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

This proposed rule includes actions for the Pacific whiting tribal and non-tribal fisheries, shortbelly rockfish and cowcod. These actions are combined into one proposed rule because they all relate to establishing catch limits and management measures for Pacific Coast groundfish stocks in 2020. This rule proposes determining the 2020 Pacific whiting coastwide TAC, and establishing the Pacific whiting U.S. TAC based on the coastwide TAC, tribal allocation, allocations for three commercial whiting sectors, and set-asides for research and incidental mortality of Pacific whiting as recommended by the Pacific Fishery Management Council (Council); increasing the 2020 annual catch limit (ACL) for shortbelly rockfish; and eliminating the 2020 annual catch target (ACT) and reducing the research set-aside for cowcod. The allocations for Pacific whiting would be effective until December 31, 2020. The adjusted catch limits for cowcod and shortbelly would supersede those put in place for 2020 through the 2019–2020 Pacific Coast Groundfish Biennial Harvest Specifications and Management Measures (83 FR 63970, December 12, 2018), and are being analyzed as part of the 2021–2022 Pacific Coast Groundfish Biennial Harvest Specifications and Management Measures, which are anticipated to be effective on January 1, 2021.

Pacific Whiting

Background on the Pacific Whiting Agreement

The transboundary stock of Pacific whiting is managed through the Agreement Between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting of 2003, Nov. 21, 2003, T.I.A.S. 08–625 (Agreement). The Agreement establishes bilateral bodies to implement its terms, including: The Joint Management Committee (JMC), which recommends the TAC for Pacific whiting; the Joint Technical Committee (JTC), which conducts the Pacific whiting stock assessment; the Scientific Review Group (SRG), which reviews the stock assessment; and the Advisory Panel (AP), which provides stakeholder input to the JMC.

The Agreement establishes a default harvest policy of F–40 percent, which means a fishing mortality rate that would reduce the spawning biomass, calculated on a per recruit basis, to 40 percent of what it would have been in absence of fishing mortality. The U.S. and Canada may choose a different fishing mortality rate if they determine that scientific evidence demonstrates that a different rate is necessary to sustain the offshore Pacific whiting resource. The Agreement also explicitly allocates 73.88 percent of the Pacific whiting TAC to the U.S. and 26.12 percent of the TAC to Canada.

Based on the advice from the Treaty's JTC, SRG, and AP, the Treaty specifies that the JMC shall recommend to the parties an overall Pacific whiting TAC by March 25th of each year. In years when the JMC does make a TAC recommendation to the parties, NMFS (under the delegation of authority from the Secretary of Commerce) approves the U.S. TAC with concurrence from the Department of State. The U.S. TAC is allocated into tribal and non-tribal sectors.

The 2020 JMC negotiations were held from March 11–13, 2020, via the internet, but did not result in a bilateral agreement on the coastwide TAC. Based on the most current information, the stock assessment estimates a TAC of 666,458 metric tons (mt) based on the default harvest policy. The final Canadian proposal was 390,000 mt and the final U.S. proposal was 555,000 mt for the adjusted coastwide TAC. The Agreement does not specify a procedure for when the JMC does not agree on a coastwide TAC. However, the 2006 Pacific Whiting Act (16 U.S.C. 7006(c)) identifies procedures for when the JMC does not recommend a final TAC. The Act states that NMFS (as delegated by the Secretary of Commerce) should establish the Pacific whiting TAC, taking into account recommendations from the JMC, JTC, SRG, AP, and Council. The Act requires NMFS to base the TAC decision on the best scientific information available, and use the default harvest rate unless scientific information indicates a different rate is necessary to sustain the Pacific whiting resource. The Act also requires NMFS to establish the U.S. share of the TAC based on the U.S./Canada percentage split and adjustments specified in the Agreement.

2020 Pacific Whiting Stock Assessment and Scientific Review

The JTC completed a stock assessment for Pacific whiting in February 2020 (available at *https://www.fisheries.noaa.gov/resource/document/2020-pacific-hake-whiting-stock-assessment).* The assessment presents a model that uses an acoustic survey biomass index, catches of the transboundary Pacific whiting stock, and age compositions to estimate the biomass of the current stock. The most recent survey, conducted collaboratively between the Canadian Department of Fisheries and Oceans and NMFS, was completed in 2019. Age-composition data from the acoustics survey and fishery catch provide information to estimate relative year class strength. Pacific whiting displays high recruitment variability relative to other west coast groundfish stocks, and typically an occasional large year-class supports much of the fishery. The Pacific whiting stock is currently supported by multiple above average cohorts simultaneously, including the 2010, 2014, 2016, and 2017 year classes, which is highly unusual. The current assessment estimates the 2010 year class as the second highest recruitment in the assessment time series. The 2014 and 2016 year classes are estimated to be above average in strength and the 2017 year is about average, however there is high uncertainty around the strength of these later year classes. The assessment estimates small year classes in 2011, 2013, 2015, and 2018, and there is no information in the data to estimate the sizes of the 2019 and 2020 year classes.

The Pacific whiting relative spawning stock is estimated to be 1.196 million mt, or 65 percent of unfished levels at the start of 2020. The estimated biomass has declined since 2017, during a time of record catches and as the very large 2010 year class ages and mortality surpasses increased production. Projections show that even in the absence of fishing, the stock is expected to decline from 65 percent to 62 percent of unfished biomass.

The stock is considered healthy, and the joint probability that the relative spawning stock biomass is both below 40 percent of unfished level and that fishing mortality is above the relative fishing intensity of the Agreement's F–40 percent default harvest rate is estimated to be 4.3 percent.

2020 Pacific Whiting TAC Evaluation and Recommendation

NMFS considered information and recommendations from the Treaty's JMC, JTC, SRG, AP, and the Council. The stock assessment from the JTC and the SRG peer review are the best scientific information available for determining the coastwide Pacific whiting TAC. NMFS heard testimony from the AP and JMC at the March 2020 meeting. The Council discussed Pacific whiting during its April 2020 meeting and did not make any specific recommendations regarding the 2020 Pacific whiting TAC.

NMFS initially considered setting the TAC resulting from the default harvest rate (666,458 mt) and all of the potential adjusted coastwide TACs discussed during the AP and JMC March 2020 meeting. This includes the U.S. initial (597,500 mt) and final positions (555,000 mt), and the Canadian initial (300,000 mt) and final positions (390,000 mt). However, because Canada's proposed TACs are well below the TACs that support a sustainable whiting resource according to the stock assessment and would have negative economic impact on the U.S. fleet with little economic impact on Canada's fleet, we excluded them from further consideration.

NMFS therefore evaluated coastwide TACs ranging from 555,000 mt to 666,458 mt in developing our proposed coastwide TAC of 575,000 mt. The stock assessment supports that most of the TACs within this range would provide adequate opportunity for both Canadian and U.S. fleets, while sustainably managing the Pacific whiting resource.

Biological Impacts of Potential Whiting TAC Levels

The Act directs NMFS to use the default harvest rate set out in the Agreement unless NMFS determines that a different rate is necessary to sustain the offshore whiting resource. The Agreement specifies a default harvest rate of ''F–40 percent'' which is the fishing mortality rate that would reduce the relative spawning stock biomass, calculated on a per recruit basis (a measure of stock reproductive potential) to 40 percent of what it would have been in the absence of fishing mortality. Although there is not a default biomass level, the JMC, since implementation of the Agreement, has focused on choosing a TAC designed to prevent the relative spawning stock biomass from falling below 40 percent of what it would have been in the absence of fishing mortality, often called B40. NMFS will follow the same practice of choosing a TAC designed to prevent the relative spawning stock biomass from falling below this biomass level.

To determine the impact of a specific TAC on relative spawning stock biomass, we applied an estimate of the Pacific whiting fleet's utilization rate, the proportion of the TAC removed through fishing effort, to the range of TACs we considered. Over the last ten years, neither the U.S. nor the Canadian fleets have ever caught the entire TAC. The 10-year (2010–2019) average utilization rate is 71.3 percent of the coastwide TAC. The five-year average utilization rate from 2010–2014 is higher (78.1 percent) than the ten-year average, while the 5-year average utilization rate from 2015–2019 is lower (64.5 percent). These averages provide a realistic range for projecting the utilization rates in 2020 and 2021.

The stock assessment indicates that applying any of the estimated average utilization rates to the range of coastwide TACs we considered results in relative spawning stock biomass levels above B40 percent after one fishing year (49–53 percent relative spawning stock biomass). When applying these coastwide TACs for 2 years, a TAC of 666,458 mt with the higher utilization rates at 71 percent or higher results in relative spawning stock biomass levels below B40 percent (37 and 39 percent). Using the same approach, a coastwide TAC of 597,500 mt and the highest utilization rate (78.08 percent) would also result in the relative spawning stock biomass level to fall below B40 percent by the beginning

of 2022. Although the Pacific whiting TAC is set annually and could be adjusted after the 2021 stock assessment, the fact that these projections result in spawning biomass levels below B40 percent after 2 years suggests that a TAC at the default harvest level and last year's TAC (597,500 mt) may risk the sustainable management of the Pacific whiting resource.

Using the same approach as described above, TACs of 575,000 mt and 555,000 mt combined with the highest utilization rate being considered, result in a projected harvest of 448,960 mt and 433,344 mt, respectively. The stock assessment indicates that these levels of harvest in 2020 would result in an estimated relative spawning stock biomass of 51 percent at the beginning of 2021, which is well above the B40 percent level, and an estimated relative spawning stock biomass of 40—41 percent at the beginning of 2022.

Overall, the stock assessment indicates that the relative spawning stock biomass of Pacific whiting has a high probability of being lower at the beginning of 2021 than 2020, ranging from an 81 percent probability with no harvest to a 97 percent probability at the default harvest rate. Although a decline is probable even in the absence of fishing pressure, the decline is relatively modest and does not threaten the sustainability of the resource. At the actual harvest rates under consideration the stock assessment indicates there is less than 33 percent chance of relative spawning stock biomass falling below B40 percent in 1 year, a less than 10 percent probability of falling below B25 percent, and essentially no chance of falling below B10 percent after 1 year.

Continuing these harvest levels into a second year does have an increased chance of relative spawning stock biomass falling below B40 percent. Two years of actual harvests above approximately 460,000 mt result in a greater than 50 percent probability of falling below B40 percent, a 20 percent probability of falling below B25 percent, and a 4 percent probability of falling below B10 percent. The best scientific information available indicates that reduction from last year's coastwide TAC (597,500 mt), and deviation from the Act's default harvest rate, would support the long-term sustainability of the stock.

Economic Impacts of Potential Pacific Whiting TAC Levels

The Pacific whiting fishery is the highest volume fishery on the West Coast of the United States, providing hundreds of jobs. In 2019, total revenue was estimated to be $29 million in the non-tribal shoreside sector and $35 million in the at-sea whiting sector. The total non-tribal ex-vessel revenue in 2019 is estimated to have been about $64 million. This is higher than the 2015–2019 inflation-adjusted average of approximately $54 million. Maintaining access to the Pacific whiting resource is important for both direct fishery participants and West Coast fishing communities.

The starting and ending proposals from Canada, 300,000 mt and 390,000 mt, represent a 49 percent and 35 percent reduction from the 2019 TAC, respectively. Reductions of this magnitude would have negative economic impact on U.S. coastal communities. Canada's proposed TACs reflect their concern with the declining Pacific whiting biomass as the 2010 year class ages, as well as uncertainty of the recent recruitment strength since the stock assessment is not able to predict cohort strength until they are detected by the acoustic survey and fishery. However, the stock assessment indicates that the higher TACs proposed by the U.S. continue to provide a sustainable Pacific whiting resource and result in the relative spawning stock biomass levels above B40 percent after 1 year, and at or above B40 percent after 2 years of fishing. Because of these factors, NMFS has preliminarily determined that a large reduction is not appropriate but supports a measured reduction from last year's TAC.

2020 Pacific Whiting Adjusted TAC Recommendation

The Act requires NMFS to make the necessary adjustments to the TAC specified in the Agreement (Paragraph 5 of Article II). The Agreement (Paragraph 5 of Article II) requires adjustments to the coastwide TAC to account for overages if either U.S. or Canadian catch in the previous year exceeded its individual TAC, or carryovers, if U.S. or Canadian catch was less than its individual TAC in the previous year. Both the U.S. and Canada harvested less than their individual TACs in 2019, and therefore carryover is applied to the 2020 individual TACs.

Taking into account the percentage shares for each country (26.12 percent for Canada and 73.88 percent for the U.S.) and the adjustments for uncaught fish, as required by the Act, we recommend a final adjusted coastwide TAC of 575,000 mt, with a final adjusted TAC for Canada of 150,190 mt (129,822 mt + 20,367 mt carryover adjustment), and a final adjusted TAC for the US of 424,810 mt (367,202 mt + 57,608 mt carryover adjustment). This recommendation is consistent with the best available scientific information, provisions of the Agreement, and the Whiting Act.

Tribal Allocations

The regulations at 50 CFR 660.50(d) identify the procedures for implementing the treaty rights that Pacific Coast treaty Indian tribes have to harvest groundfish in their usual and accustomed fishing areas in U.S. waters. Tribes with treaty fishing rights in the area covered by the Pacific Coast Groundfish FMP request allocations, set-asides, or regulations specific to the tribes during the Council's biennial harvest specifications and management measures process. The regulations state that the Secretary will develop tribal allocations and regulations in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

NMFS allocates a portion of the U.S. TAC of Pacific whiting to the tribal fishery, following the process established in 50 CFR 660.50(d). The tribal allocation is subtracted from the U.S. Pacific whiting TAC before allocation to the non-tribal sectors.

Four Washington coastal treaty Indian tribes including the Makah Indian Tribe, Quileute Indian Tribe, Quinault Indian Nation, and the Hoh Indian Tribe (collectively, the ''Treaty Tribes''), can participate in the tribal Pacific whiting fishery. Tribal allocations of Pacific whiting have been based on discussions with the Treaty Tribes regarding their intent for those fishing years. The Hoh Tribe has not expressed an interest in participating in the Pacific whiting fishery to date. The Quileute Tribe and Quinault Indian Nation have expressed interest in beginning to participate in the Pacific whiting fishery at a future date. To date, only the Makah Tribe has prosecuted a tribal fishery for Pacific whiting, and has harvested Pacific whiting since 1996 using midwater trawl gear. Table 1 below provides a recent history of U.S. TACs and annual tribal allocation in mt.

TABLE 1—U.S. TOTAL ALLOWABLE CATCH AND ANNUAL TRIBAL ALLOCATION IN METRIC TONS

Year	U.S. TAC [1] (mt)	Tribal Allocation (mt)
2010	193,935	49,939
2011	290,903	66,908
2012	186,037	48,556
2013	269,745	63,205
2014	316,206	55,336
2015	325,072	56,888
2016	367,553	64,322

TABLE 1—U.S. TOTAL ALLOWABLE CATCH AND ANNUAL TRIBAL ALLOCATION IN METRIC TONS—Continued

Year	U.S. TAC [1] (mt)	Tribal Allocation (mt)
2017	441,433	77,251
2018	441,433	77,251
2019	441,433	77,251

[1] Beginning in 2012, the United States started using the term Total Allowable Catch, or TAC, based on the Agreement between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting. Prior to 2012, the terms Optimal Yield (OY) and ACL were used.

In 2009, NMFS, the states of Washington and Oregon, and the Treaty Tribes started a process to determine the long-term tribal allocation for Pacific whiting. However, these groups have not yet determined a long-term allocation. In order to ensure Treaty Tribes continue to receive allocations, this rule proposes the 2020 tribal allocation of Pacific whiting. This allocation is not intended to set precedent for future allocations.

In exchanges between NMFS and the Treaty Tribes during November and December 2019, the Makah Tribe indicated their intent to participate in the tribal Pacific whiting fishery in 2020 and requested 17.5 percent of the U.S. TAC. The Quinault Indian Nation and Quileute Indian Tribe both informed NMFS in December 2019 that they will not participate in the 2020 fishery. The Hoh Indian Tribe has, in previous years, indicated in conversations with NMFS that they have no plans to fish for whiting in the foreseeable future and will contact NMFS if that changes. NMFS will contact the Tribes during the proposed rule comment period to refine the 2020 allocation before allocating the final U.S. TAC between the tribal and non-tribal whiting fisheries. NMFS proposes a tribal allocation that accommodates the Makah Tribe's request of 17.5 percent of the U.S. TAC. The proposed 2020 U.S.TAC is 424,810 mt, and therefore the proposed 2020 tribal allocation is 74,342 mt. NMFS has determined that the current scientific information regarding the distribution and abundance of the coastal Pacific whiting stock indicates the 17.5 percent is within the range of the tribal treaty right to Pacific whiting.

Non-Tribal Research and Bycatch Set-Asides

The U.S. non-tribal whiting fishery is managed under the Council's Pacific Coast Groundfish FMP. Each year, the Council recommends the amount of Pacific whiting to accommodate incidental mortality of Pacific whiting in research activities and non-groundfish fisheries based on estimates of scientific research catch and estimated bycatch mortality in non-groundfish fisheries. At its November 2019 meeting, the Council recommended an incidental mortality set-aside of 1,500 mt for 2020. This is consistent with the amount set-aside for research and incidental mortality each year since 2014. This rule proposes the Council's recommendations.

Non-Tribal Harvest Guidelines and Allocations

In addition to the tribal allocation, this proposed rule establishes the fishery harvest guideline (HG), called the non-tribal allocation. The proposed 2020 fishery HG for Pacific whiting is 348,968 mt. This amount was determined by deducting the 74,342 mt tribal allocation and the 1,500 mt allocation for scientific research catch and fishing mortality in non-groundfish fisheries from the total U.S. TAC of 424,810 mt. The Council recommends the research and bycatch set-aside on an annual basis, based on estimates of scientific research catch and estimated bycatch mortality in non-groundfish fisheries. The regulations further allocate the fishery HG among the three non-tribal sectors of the Pacific whiting fishery: The catcher/processor (C/P) Coop Program, the Mothership (MS) Coop Program, and the Shorebased Individual Fishing Quota (IFQ) Program. The C/P Coop Program is allocated 34 percent (118,649 mt for 2020), the MS Coop Program is allocated 24 percent (83,752 mt for 2020), and the Shorebased IFQ Program is allocated 42 percent (146,567 mt for 2020). The fishery south of 42° N lat. may not take more than 7,328 mt (5 percent of the Shorebased IFQ Program allocation) prior to May 15, the start of the primary Pacific whiting season north of 42° N lat.

The environmental assessment for the 2019–2020 harvest specifications rule (see Electronic Access) analyzed a range of TAC alternatives for 2020, and the final 2020 TAC falls within this analyzed range. In addition, via the 2019–2020 harvest specifications rulemaking process, the public had an opportunity to comment on the 2019–2020 TACs for whiting, just as they did for all species in the groundfish FMP. NMFS follows this process because, unlike for all other groundfish species, the TAC for whiting is decided in a highly abbreviated annual process from February through April of every year, and the normal rulemaking process would not allow for the fishery to open with the new TAC on the annual season opening date of May 15.

TABLE 2—2020 PROPOSED PACIFIC WHITING ALLOCATIONS IN METRIC TONS

Sector	2020 Pacific whiting allocation (mt)
Tribal	74,342
Catcher/Processor (C/P) Coop Program	118,649
Mothership (MS) Coop Program	83,752
Shorebased IFQ Program	146,567

2020 Harvest Specifications for Pacific Coast Shortbelly Rockfish and Cowcod South of 40°10′ N Latitude

Shortbelly rockfish and cowcod south of 40°10′ N latitude are managed under the Pacific Coast Groundfish FMP. The FMP requires that the Council set harvest specifications and management measures for groundfish at least biennially. NMFS established 2019 and 2020 harvest specifications including overfishing limits (OFLs), allowable biological catches (ABCs), ACLs and management measures such as annual catch targets (ACTs) for groundfish stocks in December 2018 (83 FR 63970, December 12, 2018). In June 2019, the Council and NMFS received public comment from affected stakeholders that low catch limits for two stocks, cowcod south of 40°10′ N latitude and shortbelly rockfish, were preventing vessels from harvesting co-occurring healthy fish stocks because of increased bycatch levels. The Council held meetings in September and November 2019 to identify a range of alternatives for each stock and select final preferred alternatives to recommend for implementation. This proposed rule is based on the Council's final recommendations made at its November 2019 meeting. The Council deemed the proposed regulations consistent with and necessary to implement the proposed actions in a March 19, 2020 letter. The Analysis identifies the preferred alternatives and other decision points and is posted on the NMFS West Coast Region web page (see **ADDRESSES**) along with this proposed rule.

The Council and NMFS consider the proposed actions consistent with provisions in the Pacific Coast Groundfish FMP, which allows changes to the harvest specifications and adjustments to management measures on a schedule other than the typical

biennial cycle under special circumstances.

Shortbelly Rockfish (Sebastes jordani)

This rule proposes to implement the Council recommendation from its November 2019 meeting, to increase the 2020 ACL for shortbelly rockfish to 3,000 mt. The remaining shortbelly rockfish catch limits for 2020, including the OFL and ABC, are unchanged from those implemented in the 2019–2020 Pacific Coast Groundfish Biennial Harvest Specifications (83 FR 63970, December 12, 2018). The proposed changes are summarized in Table 3 below.

TABLE 3—COMPARISON OF NO ACTION ALTERNATIVE AND PROPOSED 2020 HARVEST SPECIFICATIONS AND MANAGEMENT MEASURES FOR SHORTBELLY ROCKFISH IN METRIC TONS

	No action alternative (current 2020)	Proposed rule
OFL	6,950	6,950
ABC	5,789	5,789
ACL	500	3,000
Fishery Harvest Guideline	483	2,983

Shortbelly rockfish (*Sebastes jordani*) is one of the most abundant rockfish species and an important forage species in the California Current Ecosystem. Unlike most harvested Pacific coast rockfishes (*e.g.,* bocaccio and cowcod), shortbelly rockfish are small-bodied, relatively short-lived and semi-pelagic rockfish that school as adults. Shortbelly rockfish recruitment is highly variable among years, causing populations to undergo large ''booms and busts''.

Historically, shortbelly rockfish was most abundant off central California from Monterey Bay to Point Reyes, common in southern California, and only rarely encountered north of Cape Mendocino, California. In recent years, shortbelly rockfish distribution has extended north of Cape Mendocino, California and into Oregon and Washington waters, the principal fishing areas the midwater trawl fishery operates in to harvest Pacific whiting. While shortbelly rockfish bycatch was historically low in the Pacific whiting fishery, the recent shift in distribution and a likely increase in abundance, is resulting in increased bycatch of shortbelly rockfish in the Pacific whiting midwater trawl fishery.

Shortbelly rockfish was last assessed in 2007. The assessment, available on the Council's website at *https://www.pcouncil.org/documents/2007/04/stock-assessment-model-for-the-shortbelly-rockfish-sebastes-jordani-in-the-california-current.pdf/,* estimated the shortbelly rockfish stock to be 67 percent of unfished levels at the start of 2005. Given that the population size is known to be highly dynamic, it is possible that the population size and distribution changed in the recent years. The Analysis describes NMFS survey data, including the Southwest Fisheries Science Center's Rockfish Recruitment and Ecosystem Analysis Survey (RREAS) and California Cooperative Oceanic Fisheries Investigations (CalCOFI) and the Northwest Fisheries Science Center's West Coast Groundfish Bottom Trawl Survey. The data show extraordinarily high recruitment events occurred between 2013 and 2017, and provide evidence that the overall shortbelly rockfish population was very high in 2018–2019. The population size in southern California remains close to average levels and suggests shortbelly rockfish population did not simply shift to northern waters. Increased encounters of shortbelly rockfish in northern midwater trawl fisheries is likely the result of increased recruitment and coastwide biomass coupled with an expansion of its geographic range on the West Coast.

In addition to examining NMFS survey data for trends in shortbelly rockfish biomass and distribution, the Analysis describes that forage species other than shortbelly rockfish (specifically northern anchovy) were unusually abundant, and that there was higher than average production of several marine predators in 2018–19.

Shortbelly rockfish is not targeted by west coast fisheries. Given its importance as a forage species, the Council considered classifying shortbelly rockfish as an ecosystem component species in the 2013–14 biennial management cycle following the revision of National Standard 1 guidelines. The Council decided to retain shortbelly rockfish as a stock actively managed in the fishery in the Pacific Coast Groundfish FMP, which requires that the Council set an OFL, ABC, and ACL for this stock as part of the biennial harvest specifications process. The shortbelly rockfish default harvest control rule is used to set the ACL each biennial cycle. The current default harvest control rule is a constant catch value intended to accommodate observed bycatch levels, discourage targeting, and continue to protect the availability of shortbelly rockfish as a forage species. The Council recommended a low ACL of 50 mt in 2011–2012 Pacific Coast Groundfish Biennial Harvest Specifications and Management Measures (76 FR 27508, May 11, 2011) to discourage development of any targeted fishery, and accommodate incidental bycatch of shortbelly rockfish, while allowing the remaining harvestable surplus of the stock to be available as forage fish in the ecosystem. The ACL was increased from 50 to 500 mt in the 2015–2016 Pacific Coast Groundfish Biennial Harvest Specifications and Management Measures (80 FR 12567, March 10, 2015) to accommodate a potential increase in bycatch as a midwater rockfish fishery re-emerged following the rebuilding of widow rockfish.

Shortbelly rockfish catch remained low and well below the ACL of 500 mt until 2017 when it increased from 30 mt to 320 mt. The Analysis describes annual catch of shortbelly rockfish. High bycatch of shortbelly rockfish in the whiting sectors resulted in the fishery exceeding the ACLs in 2018 (508 mt) and 2019 (approximately 655 mt).

In the absence of this proposed rule to increase the 2020 shortbelly rockfish ACL, a future shortbelly rockfish overage could result in early closure of the Pacific whiting and non-whiting midwater trawl fisheries, which could have negative economic consequences for vessels, processors, and communities. The magnitude of economic losses due to early fishery closure from attaining the shortbelly rockfish ACL is difficult to project and is dependent on which fisheries would close and when they would close. The Analysis describes impacts of potential closures of the midwater trawl fisheries targeting whiting and pelagic rockfish

that are most likely to incur a large bycatch of shortbelly rockfish and be subject to an early closure if the shortbelly rockfish ACL is attained. The range of predicted impacts in terms of foregone income is $4.6 million to $175.2 million depending on whether there is a late season closure in December or an earlier closure in June.

This action proposes changes to the shortbelly ACL are consistent with Section 5.5.1 of the Pacific Coast Groundfish FMP, which states:

''. . .OFLs, ABCs, ACLs, OYs, ACTs, HGs, and quotas may only be modified in cases where a harvest specification announced at the beginning of the biennial fishing period is found to have resulted from incorrect data or from computational errors. If the Council finds that such an error has occurred, it may recommend the Secretary publish a notice in the **Federal Register** revising the incorrect harvest specification at the earliest possible date.''

The 2018 West Coast Groundfish Observer Program data and estimates of shortbelly rockfish bycatch were not available when setting the 2019 and 2020 harvest specifications and this new information compels this consideration.

Increasing the shortbelly rockfish ACL to 3,000 mt for the final half of the 2020 fishing year would accommodate incidental bycatch of the shortbelly rockfish stock given recent high bycatch in groundfish trawl fisheries, while continuing to minimize bycatch, discourage development of a targeted fishery for shortbelly rockfish, and continuing to protect the availability of shortbelly rockfish as important forage in the California Current Ecosystem.

The increase of the 2020 ACL is not anticipated to induce targeting of shortbelly. Industry has indicated that shortbelly rockfish is not currently marketable and does not expect it to become so in the near future. The low ex-vessel price of $0.01-$0.03 per pound in recent years supports industry reports that the fish is primarily used as fishmeal or discarded at-sea. The median West Coast limited entry trawl permitted vessel has variable operating costs of $0.46 per pound, according to the most recent Economic Data Collection Report, and is unlikely to pursue a targeting strategy for such a low value species, as the revenues would be less than typical operating costs. Industry also provided testimony that they avoid catching shortbelly rockfish because the spines of shortbelly rockfish degrade Pacific whiting quality as they are impinged in the codend.

The proposed rule continues to protect the availability of shortbelly rockfish as important forage in the California Current Ecosystem. Scientific information currently available provides evidence of above average forage conditions in the California Current Ecosystem with higher abundances of forage species such as anchovy and a high overall shortbelly rockfish population in 2018–2019. Further, the higher ACL under the proposed rule is well below the shortbelly rockfish OFL of 6,950 mt, and ABC of 5,789 mt.

The proposed rule is an accountability measure that addresses the operational issue of a low ACL that resulted in ACL overages in 2018 and 2019. National Standard 1 Guidelines state: ''On an annual basis, the Council must determine as soon as possible after the fishing year if an ACL was exceeded. If an ACL was exceeded, AMs must be implemented as soon as possible to correct the operational issue that caused the ACL overage, as well as any biological consequences to the stock or stock complex resulting from the overage when it is known.''

The proposed increase would improve the performance and effectiveness of the ACL by increasing the ACL to better correspond with recent trends in shortbelly rockfish abundance and bycatch rates in the groundfish fishery. This would reduce the risk of an ACL overage in 2020, which would potentially close midwater trawl fisheries and cause adverse economic impacts to West Coast fishing communities while continuing to protect the availability of shortbelly rockfish as important forage in the California Current Ecosystem.

Cowcod (Sebastes levis) South of 40°10′ N Latitude

This proposed rule would remove the cowcod ACT of 6 mt and reduce the research catch set-aside to 1 mt for cowcod south of 40°10′ N. latitude in 2020. The ACL would remain at 10 mt. The 2020 cowcod annual vessel limit would increase from 858 pounds (.4 mt) to 1,264 pounds (.6 mt) for affected participants in the limited entry trawl fishery south of 40°10′ N. latitude. The proposed changes are summarized in Table 4 below. This action would reduce the risk that vessels in the trawl IFQ program reach their annual vessel limit for cowcod in 2020 and have to cease fishing in the trawl IFQ program for the remainder of the year.

TABLE 4—SUMMARY OF THE FEATURES OF THE NO ACTION AND PREFERRED ALTERNATIVES FOR COWCOD SOUTH OF 40°10′ N LATITUDE IN METRIC TONS, EXCEPT WHERE NOTED AS POUNDS

	No action alternative (current 2020)	Proposed rule
OFL	76	76
ABC	68	68
ACL	10	10
Research Set-aside	2	1
Fishery HG	8	9
ACT	6	Removed
Non-Trawl Allocation (64 percent of the ACL)	3.8	5.8
Trawl Allocation (36 percent of the ACL)	2.2	3.2
Annual Vessel Limit (17.7 percent of trawl allocation)	0.4 (858 pounds)	0.6 (1,264 pounds)
Increase in vessel limit	0	0.2 (406 pounds)
Increase in vessel limit (percent)	0	47

Updated information on cowcod research conducted by the Northwest Fisheries Science Center and other entities indicates that a lower set-aside will accommodate planned research activities without a risk of exceeding the ACL.

Cowcod south of 40°10′ N latitude was declared overfished in January 2000. In 2001, NMFS closed most of their habitat in the Southern California Bight (SCB) south of Point Conception at 34°27′ N latitude to bottom fishing. The Council adopted and NMFS implemented a rebuilding plan for the

stock under Amendment 16–3 to the Pacific Coast Groundfish FMP (69 FR 57874, September 28, 2004), revised the rebuilding plan for the stock under Amendment 16–4 in 2007 (71 FR 78638, December 29, 2006) and again under Amendment 16–5 in 2011 (76 FR 77415, December 13, 2011). Using the spawning potential ratio harvest control rate of 82.7 percent specified in the most recent rebuilding plan, the median time to rebuild was estimated to be 2068 at that time.

Harvest specifications and management measures for cowcod in the 2019–20 biennial management period were based on the 2013 rebuilding analysis and consistent with the rebuilding plan provisions. Cowcod stock assessments and rebuilding analyses are available on the Council's website at *https://www.pcouncil.org/stock-assessments-star-reports-stat-reports-rebuilding-analyses-terms-of-reference/groundfish-stock-assessment-documents/.* The 2013 assessment and rebuilding analysis concluded that the cowcod stock is rebuilding much more quickly than anticipated under its rebuilding plan.

The 2020 cowcod harvest specifications and management measures were established as part of the 2019–2020 Pacific Coast Groundfish Biennial Harvest Specifications and Management Measures (83 FR 63970, December 12, 2018). The Stock Assessment and Fishery Evaluation (SAFE) document posted on the Council's website at *https://www.pcouncil.org/documents/2019/01/status-of-the-pacific-coast-groundfish-fishery-stock-assessment-and-fishery-evaluation-description-of-the-fishery-revised-january-2019.pdf/* contains a detailed description of cowcod, its status and management, as well as the Council's Scientific and Statistical Committee's approach for rebuilding analyses.

The Southwest Fisheries Science Center completed a new stock assessment for cowcod in 2019 and the spawning stock depletion at the start of 2019 is at 57 percent of unfished levels, which is above the 40 percent target. The 2019 stock assessment is available on the Council's website at *https://www.pcouncil.org/documents/2019/10/status-of-cowcod-sebastes-levis-in-2019-october-24-2019.pdf/.* NMFS declared the stock rebuilt effective September 30, 2019 in the 2019 Quarter 3 Status of the Stocks report available at *https://www.fisheries.noaa.gov/national/population-assessments/fishery-stock-status-updates.* As a result of the cowcod rebuilding, the Council and NMFS will consider changes to cowcod catch limits in establishing the 2021–2022 Pacific Coast Groundfish Biennial Harvest Specifications and Management Measures. This proposed rule does not consider a change to the 2020 rebuilding harvest control rule. The ACL would remain at 10 mt.

To keep mortality of the stocks managed under the Pacific Coast Groundfish FMP within the ACLs, the Council also recommends management measures. Pacific Coast Groundfish FMP Section 6.2D describes the process for modifying management measures, which includes a two Council meeting process and a regulatory amendment. Management measures are intended to rebuild overfished stocks, prevent catch from exceeding the ACLs, and allow for the harvest of healthy stocks. The 2019–2020 Pacific Coast Groundfish Biennial Harvest Specifications and Management Measures established an ACT of 6 mt for both 2019 and 2020 to address the uncertainty in research impacts and ensure total mortality is within the ACL. The ACT functions as a fishery harvest guideline and is the amount allocated across groundfish trawl and non-trawl fisheries. The current specifications allocated 2 mt of cowcod for research. Updated information on cowcod research is now available and indicates that a lower set-aside of 1 mt would accommodate planned research activities. Over the past several years, cowcod harvest has consistently been far below the ACL and ACT.

The Pacific Coast Groundfish Trawl Catch Share Program (75 FR 60868, October 1, 2010 and 75 FR 78343, December 15, 2010) issued IFQ to limited entry trawl participants. In addition to IFQ, the program established annual vessel limits for IFQ species to prevent any one entity from having excessive control of a stock during a fishing year. The 2020 cowcod annual vessel limit of 858 pounds (389.182 kg) is based on an apportionment (17.7 percent) of the trawl allocation of the 6 mt ACT (Table 3).

The low overall catch limits of cowcod have prevented the Shorebased IFQ bottom trawlers from accessing healthy co-occurring groundfish stocks and in some years have resulted in vessels ending their fishing season early. Although the cowcod stock is now rebuilt, the timing of the biennial groundfish specification cycle means that the fleet would not benefit from less restrictive cowcod catch limits until 2021. This proposed action would reduce the risk that vessels fishing south of 40°10′ N lat. in the groundfish trawl IFQ program would reach their annual vessel limit for cowcod in 2020 and have to cease fishing in the trawl IFQ program for the remainder of the year, which would result in severe adverse economic impacts for those vessels and the fishing communities reliant on the trawl fishery south of 40°10′ N lat.

This proposed rule would be implemented under the statutory and regulatory authority of section 304(b) and 305(d) of the Magnuson-Stevens Act, and the Pacific Whiting Act of 2006. With this proposed rule, NMFS, acting on behalf of the Secretary, would ensure that the FMP is implemented in a manner consistent with treaty rights of four Treaty Tribes to fish in their ''usual and accustomed grounds and stations'' in common with non-tribal citizens. *United States* v. *Washington,* 384 F. Supp. 313 (W.D. Wash. 1974).

III. Classification

NMFS notes that the public comment period for this proposed rule is 15 days. As a result of the requirements to amend reallocation provisions and announce Pacific whiting harvest guidelines by the Pacific whiting season start date, May 15th, NMFS has determined that a 15-day comment period best balances the interest in allowing the public adequate time to comment on the proposed measures while implementing the management measures and announcing the Pacific whiting allocations.

Pursuant to section 304 (b)(1)(A) and 305 (d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Pacific Coast Groundfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. In making its final determination, NMFS will take into account the complete record, including the data, views, and comments received during the comment period.

Pursuant to Executive Order 13175, this proposed rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the Pacific Coast Groundfish FMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, regulations implementing the Pacific Coast Groundfish FMP establish a procedure by which the tribes with treaty fishing rights in the area covered by the Pacific Coast Groundfish FMP request new allocations or regulations specific to the tribes, in writing, before the first of the two meetings at which

the Council considers groundfish management measures. The regulations at 50 CFR 660.324(d) further state, ''the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.'' The tribal management measures in this proposed rule have been developed following these procedures.

The Office of Management and Budget has determined that this proposed rule is not significant for purposes of Executive Order 12866. This proposed rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

The Council and NMFS prepared an Integrated Analysis for the shortbelly rockfish and cowcod actions, which address the statutory requirements of the Magnuson-Stevens Act, the National Environmental Policy Act, Presidential Executive Order 12866, and the Regulatory Flexibility Act. As part of this Analysis, an environmental assessment (EA) was prepared that describes the impact on the human environment that would result from implementation of the proposed shortbelly rockfish action. The full suite of alternatives analyzed by the Council can be found on the Council's website at *www.pcouncil.org.* This Analysis does not contain all the alternatives because a range of potential total harvest levels for Pacific whiting and cowcod, which these actions would simply allocate among user groups, have been considered under the Final Environmental Impact Statement for Harvest Specifications and Management Measures for 2015–2016 and Biennial Periods thereafter (2015/16 FEIS) and in the Environmental Assessment for Harvest Specifications and Management Measures for 2019–2020 and Biennial Periods Thereafter and is available from NMFS (see **ADDRESSES**). The 2015/16 FEIS examined the harvest specifications and management measures for 2015–16 and 10 year projections for routinely adjusted harvest specifications and management measures. The 10 year projections were produced to evaluate the impacts of the ongoing implementation of harvest specifications and management measures and to evaluate the impacts of the routine adjustments that are the main component of each biennial cycle. Therefore, the EA for the 2019–20 cycle tiers from the 2015/16 FEIS and focuses on the harvest specifications and management measures that were not within the scope of the 10 year projections in the 2015/16 FEIS. A copy of the EA for shortbelly rockfish, which is included as part of the Analysis, is available from NMFS (see **ADDRESSES**). This action also announces a public comment period on the EA for shortbelly rockfish.

Initial Regulatory Flexibility Analyses (IRFA) were prepared for this action, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action is contained in the **SUMMARY** section and at the beginning of the **SUPPLEMENTARY INFORMATION** section of the preamble. A summary of the IRFA follow. Copies of the IRFAs are available from NMFS (See **ADDRESSES**).

Under the RFA, the term ''small entities'' includes small businesses, small organizations, and small governmental jurisdictions. The Small Business Administration has established size criteria for entities involved in the fishing industry that qualify as small businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts, not in excess of $11 million for all its affiliated operations worldwide (see 80 FR 81194, December 29, 2015). A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 750 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. For purposes of rulemaking, NMFS is also applying the seafood processor standard to catcher processors because Pacific whiting Catcher-Processors (C/Ps) earn the majority of the revenue from processed seafood product.

Description and Estimate of the Number of Small Entities to Which the Rule Applies, and Estimate of Economic Impacts by Entity Size and Industry

This proposed rule would affect how Pacific whiting is allocated to the following sectors/programs: Tribal, Shorebased IFQ Program Trawl Fishery, MS Coop Program Whiting At-sea Trawl Fishery, and C/P Coop Program Whiting At-sea Trawl Fishery. The amount of Pacific whiting allocated to these sectors is based on the U.S. TAC. We expect one tribal entity to fish for Pacific whiting in 2020. Tribes are not considered small entities for the purposes of RFA. Impacts to tribes are nevertheless considered in this analysis. As of January 2020, the Shorebased IFQ Program is composed of 167 Quota Share permits/accounts (134 of which were allocated whiting quota pounds), and 41 first receivers, two of which are designated as whiting-only receivers and 15 that may receive both whiting and non-whiting. These regulations also directly affect participants in the MS Co-op Program, a general term to describe the limited access program that applies to eligible harvesters and processors in the MS sector of the Pacific whiting at-sea trawl fishery. This program currently consists of six MS processor permits, and a catcher vessel fleet currently composed of a single co-op, with 34 Mothership/Catcher Vessel (MS/CV) endorsed permits (with three permits each having two catch history assignments). These regulations also directly affect the C/P Co-op Program, composed of 10 C/P endorsed permits owned by three companies that have formed a single coop. These co-ops are considered large entities from several perspectives; they have participants that are large entities, and have in total more than 750 employees worldwide including affiliates. Although there are three non-tribal sectors, many companies participate in two sectors and some participate in all three sectors. As part of the permit application processes for the non-tribal fisheries, based on a review of the Small Business Administration size criteria, permit applicants are asked if they considered themselves a ''small'' business, and they are asked to provide detailed ownership information. Data on employment worldwide, including affiliates, are not available for these companies, which generally operate in Alaska as well as the West Coast and may have operations in other countries as well. NMFS has limited entry permit holders self-report size status. For 2020, all 10 CP permits reported they are not small businesses, as did 8 mothership catcher vessels. There is substantial, but not complete overlap between permit ownership and vessel ownership so there may be a small number of additional small entity vessel owners who will be impacted by this rule. After accounting for cross participation, multiple QS account holders, and affiliation through ownership, NMFS estimates that there are 106 non-tribal entities directly affected by these proposed regulations, 85 of which are considered ''small'' businesses.

This rule will allocate Pacific whiting between tribal and non-tribal harvesters (a mixture of small and large businesses). Tribal fisheries consist of a mixture of fishing activities that are similar to the activities that non-tribal fisheries undertake. Tribal harvests may be delivered to both shoreside plants and motherships for processing. These processing facilities also process fish harvested by non-tribal fisheries. The effect of the tribal allocation on non-tribal fisheries will depend on the level of tribal harvests relative to their allocation and the reapportionment process. If the tribes do not harvest their entire allocation, there are opportunities during the year to reapportion unharvested tribal amounts to the non-tribal fleets. For example, in 2019 NMFS reapportioned 40,000 mt of the original 77,251 mt tribal allocation. This reapportionment was based on conversations with the tribes and the best information available at the time, which indicated that this amount would not limit tribal harvest opportunities for the remainder of the year. The reapportioning process allows unharvested tribal allocations of Pacific whiting to be fished by the non-tribal fleets, benefitting both large and small entities. The revised Pacific whiting allocations for 2019 following the reapportionment were: Tribal 37,251 mt, C/P Co-op 136,912 mt; MS Co-op 96,644 mt; and Shorebased IFQ Program 169,126 mt.

The prices for Pacific whiting are largely determined by the world market because most of the Pacific whiting harvested in the U.S. is exported. The U.S. Pacific whiting TAC is highly variable, as have subsequent harvests and ex-vessel revenues. For the years 2015 to 2019, the total Pacific whiting fishery (tribal and non-tribal) averaged harvests of approximately 281,205 mt annually. The 2019 U.S. non-tribal fishery had a catch of approximately 312,500 mt, and the tribal fishery landed approximately 4,000 mt.

Impacts to Makah catcher vessels who elect to participate in the tribal fishery are measured with an estimate of ex-vessel revenue. In lieu of more complete information on tribal deliveries, total ex-vessel revenue is estimated with the 2019 average shoreside ex-vessel price of Pacific whiting, which was $200 per mt. At that price, the proposed 2020 tribal allocation of 74,342 mt would have an ex-vessel value of $14.9 million.

Shortbelly Rockfish

The proposed rule would primarily affect limited entry trawl vessels, especially midwater trawl vessels targeting Pacific whiting and semi-pelagic rockfish (*i.e.,* non-whiting) north of 40°10′ N latitude given the sectors and gear experiencing the highest bycatch of shortbelly rockfish in recent years. The entities fishing for Pacific whiting (described in detail above), and the 14–20 vessels fishing in the non-whiting midwater trawl fishery in 2017–2018, would be affected. The preferred shortbelly rockfish alternative would have neutral to positive impacts for limited entry trawl participants fishing in the Pacific whiting and non-whiting midwater fisheries.

Cowcod South of 40°10′ N Latitude

The proposed rule would directly impact two groups: Quota share owners of cowcod south of 40°10′ N latitude and catcher vessel owners who operate vessels south of 40°10′ N latitude and have the potential to encounter cowcod. There are 62 entities that own 2020 cowcod quota and 7 vessels that caught cowcod south of 40°10′ N. latitude in 2019 that would be impacted by this rule. The preferred cowcod alternative would have neutral to positive impacts for limited entry trawl participants who own quota for this species and/or fish south of 40°10′ N latitude. Quota owners that are able to sell increased quota amounts may benefit. Most IFQ vessels do not operate south of 40°10′ N latitude and would experience no impacts from the preferred alternative.

A Description of any Significant Alternatives to the Proposed Rule That Accomplish the Stated Objectives of Applicable Statutes and That Minimize any Significant Economic Impact of the Proposed Rule on Small Entities

NMFS considered two alternatives for the Pacific whiting action: The ''No Action'' and the ''Proposed Action.'' NMFS considered a range of alternatives for the Pacific whiting coastwide TAC. A coastwide TAC of 555,000 mt has greater economic impacts for 2020 than what is proposed is this rule (a coastwide TAC of 575,000 mt). Higher coastwide TACs considered in the range (597,500 mt and 666,480 mt) would have less economic impact for 2020. However, 2020 assessment projections indicate these higher catch levels may result in near-term stock biomass declines below target levels. This is contrary to the Whiting Act and Agreement, which requires sustainable management of the Pacific whiting resource.

NMFS did not consider a broader range of alternatives to the proposed tribal allocation. The tribal allocation is based primarily on the requests of the tribes. These requests reflect the level of participation in the fishery that will allow them to exercise their treaty right to fish for Pacific whiting. Under the Proposed Action alternative, NMFS proposes to set the tribal allocation percentage at 17.5 percent, as requested by the Tribes. This would yield a tribal allocation of 74,342 mt for 2020. Consideration of a percentage lower than the tribal request of 17.5 percent is not appropriate in this instance. As a matter of policy, NMFS has historically supported the harvest levels requested by the Tribes. Based on the information available to NMFS, the tribal request is within their tribal treaty rights. A higher percentage would arguably also be within the scope of the treaty right. However, a higher percentage would unnecessarily limit the non-tribal fishery.

Under the no action alternative, NMFS would not set a coastwide TAC or make an allocation to the tribal sector. This alternative was considered, but the Act requires the U.S. to establish TACs to sustainably manage the Pacific whiting resource. The regulatory framework provides for a tribal allocation on an annual basis only. Therefore, the no action alternative would result in no allocation of Pacific whiting to the tribal sector in 2020, which would be inconsistent with NMFS' responsibility to manage the fishery consistent with the tribes' treaty rights. Given that there is a tribal request for allocation in 2020, this alternative received no further consideration.

Shortbelly Rockfish

The Council and NMFS considered three alternatives for shortbelly rockfish: No action, specifying a 2020 ACL of 3,000 mt and specifying a 2020 ACL of 4,184 mt. Under the no action alternative, NMFS would not change the 2020 ACL for shortbelly rockfish. This no action alternative has the highest risk of an early fishery closure and lost revenue for Pacific whiting and LE non-whiting midwater trawl fisheries and communities. The range of predicted impacts in terms of foregone income is $4.6 million to $175.2 million depending on whether there is a late season closure in December or an earlier closure in June.

The proposed measure for shortbelly rockfish would reduce the risk of an early closure for midwater trawl fisheries due to the possibility of high bycatch of shortbelly rockfish in 2020, and avoid the adverse economic impacts to West Coast fishing communities that would result from such closures or constraints. The proposed measure to establish the 2020 ACL at 3,000 mt rather than the alternative of 4,184 mt,

should be sufficient to avoid constraining the midwater trawl fishery while continuing to ensure more than adequate shortbelly rockfish as forage.

Cowcod

The Council and NMFS considered no action and alternatives to provide relief on limited entry trawl participants fishing south of 40°10′ N latitude, including removing the ACT and adjustments to the research set-aside amounts. Under the no action alternative, NMFS would not change the ACT or research set-aside amounts. This no action alternative would result in potential loss of revenue if vessels reach their cowcod individual vessel limit and are required to cease fishing for the remainder of the year.

The proposed measure for cowcod would eliminate the 2020 ACT of 6 mt for cowcod south of 40°10′ N latitude and reduce the research set-aside amount to 1 mt. The annual vessel limit for cowcod would increase from 858 lbs (.4 mt) to 1,264 lbs (.6 mt). This alternative meets the stated purpose and need to reduce the risk that IFQ vessels south of 40°10′ N latitude will reach their individual vessel limits of cowcod in 2020 and have to cease fishing in the IFQ fishery for the remainder of the year, which would result in adverse economic impacts on those vessels and fishing communities in the area. The Council considered an alternative to remove the ACT of 6 mt and reduce the research set-aside to 0.5 mt. This alternative may have resulted in a lesser economic impact on vessels and fishing communities, but it did not provide an adequate amount of cowcod for research.

Regulatory Flexibility Act (RFA) Determination of No Significant Impact

NMFS determined this proposed rule would not adversely affect small entities. The reapportioning process allows unharvested tribal allocations of Pacific whiting, fished by small entities, to be fished by the non-tribal fleets, benefitting both large and small entities. The shortbelly and cowcod measures will assist small entities by reducing the risk of early closures due to bycatch. The shortbelly rockfish and cowcod measures are temporary and will be in effect for less than 1 year.

NMFS has prepared IRFAs and is requesting comments on this conclusion. See **ADDRESSES**.

There are no reporting, recordkeeping or other compliance requirements in the proposed rule.

No Federal rules have been identified that duplicate, overlap, or conflict with this action.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian Fisheries.

Dated: April 13, 2020.

Samuel D. Rauch III,

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

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

PART 660—FISHERIES OFF WEST COAST STATES

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

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

■ 2. In § 660.50, revise paragraph (f)(4) to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f) * * *

(4) *Pacific whiting.* The tribal allocation for 2020 will be 74,342 mt.

* * * * *

■ 3. Revise table 2a to part 660, subpart C, to read as follows:

TABLE 2a TO PART 660, SUBPART C—2020, AND BEYOND, SPECIFICATION OF OFL, ABC, ACL, ACT AND FISHERY HARVEST GUIDELINES

[Weights in metric tons]

Stocks/stock complexes	Area	OFL	ABC	ACL [a]	Fishery HG [b]
COWCOD [c]	S of 40°10′ N lat	76	68	10	9
COWCOD	(Conception)	62	57	NA	NA
COWCOD	(Monterey)	13	11	NA	NA
YELLOWEYE ROCKFISH [d]	Coastwide	84	77	49	43
Arrowtooth Flounder [e]	Coastwide	15,306	12,750	12,750	10,655
Big Skate [f]	Coastwide	541	494	494	452
Black Rockfish [g]	California (S of 42° N lat.)	341	326	326	325
Black Rockfish [h]	Washington (N of 46°16′ N lat.)	311	297	297	279
Bocaccio [i]	S of 40°10′ N lat	2,104	2,011	2,011	1,965
Cabezon [j]	California (S of 42° N lat.)	153	146	146	146
California Scorpionfish [k]	S of 34°27′ N lat	331	307	307	305
Canary Rockfish [l]	Coastwide	1,431	1,368	1,368	1,301
Chilipepper Rockfish [m]	S of 40°10′ N lat	2,521	2,410	2,410	2,325
Darkblotched Rockfish [n]	Coastwide	853	815	815	781
Dover Sole [o]	Coastwide	92,048	87,998	50,000	48,404
English Sole [p]	Coastwide	11,101	10,135	10,135	9,919
Lingcod [q]	N of 40°10′ N lat	4,768	4,558	4,541	4,263
Lingcod [r]	S of 40°10′ N lat	977	934	869	858
Longnose Skate [s]	Coastwide	2,474	2,365	2,000	1,852
Longspine Thornyhead [t]	N of 34°27′ N lat	3,901	3,250	2,470	2,420
Longspine Thornyhead [u]	S of 34°27′ N lat	.....	.....	780	779
Pacific Cod [v]	Coastwide	3,200	2,221	1,600	1,094
Pacific Whiting [w]	Coastwide	666,458	([w])	([w])	348,968
Pacific Ocean Perch [x]	N of 40°10′ N lat	4,632	4,229	4,229	4,207
Petrale Sole [y]	Coastwide	2,976	2,845	2,845	2,524
Sablefish [z]	N of 36° N lat	8,648	7,896	5,723	See Table 2c
Sablefish [aa]	S of 36° N lat	.....	.....	2,032	2,028
Shortbelly Rockfish [bb]	Coastwide	6,950	5,789	3,000	2,983
Shortspine Thornyhead [cc]	N of 34°27′ N lat	3,063	2,551	1,669	1,604
Shortspine Thornyhead [dd]	S of 34°27′ N lat	.....	.....	883	882

TABLE 2a TO PART 660, SUBPART C—2020, AND BEYOND, SPECIFICATION OF OFL, ABC, ACL, ACT AND FISHERY HARVEST GUIDELINES—Continued

[Weights in metric tons]

Stocks/stock complexes	Area	OFL	ABC	ACL [a]	Fishery HG [b]
Spiny Dogfish [ee]	Coastwide	2,472	2,059	2,059	1,726
Splitnose Rockfish [ff]	S of 40°10′ N lat	1,810	1,731	1,731	1,714
Starry Flounder [gg]	Coastwide	652	452	452	433
Widow Rockfish [hh]	Coastwide	11,714	11,199	11,199	10,951
Yellowtail Rockfish [ii]	N of 40°10′ N lat	6,261	5,986	5,986	4,941
Black Rockfish/Blue Rockfish/Deacon Rockfish [jj]	Oregon (Between 46°16′ N lat. and 42° N lat.)	670	611	611	609
Cabezon/Kelp Greenling [kk]	Oregon (Between 46°16′ N lat. and 42° N lat.)	216	204	204	204
Cabezon/Kelp Greenling [ll]	Washington (N of 46°16′ N lat.)	12	10	10	10
Nearshore Rockfish [mm]	N of 40°10′ N lat	92	82	82	79
Shelf Rockfish [nn]	N of 40°10′ N lat	2,302	2,048	2,048	1,971
Slope Rockfish [oo]	N of 40°10′ N lat	1,873	1,732	1,732	1,651
Nearshore Rockfish [pp]	S of 40°10′ N lat	1,322	1,165	1,163	1,159
Shelf Rockfish [qq]	S of 40°10′ N lat	1,919	1,626	1,625	1,546
Slope Rockfish [rr]	S of 40°10′ N lat	855	743	743	723
Other Flatfish [ss]	Coastwide	8,202	6,041	6,041	5,792
Other Fish [tt]	Coastwide	286	239	239	230

[a] Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

[b] Fishery HGs means the HG or quota after subtracting Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT.

[c] Cowcod south of 40°10′ N lat. 1 mt is deducted from the ACL to accommodate EFP fishing (less than 0.1 mt) and research activity, resulting in a fishery HG of 9 mt. Any additional mortality in research activities will be deducted from the ACL.

[d] Yelloweye rockfish. The 49 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2029 and an SPR harvest rate of 65 percent. 6.1 mt is deducted from the ACL to accommodate the Tribal fishery (2.3 mt), the incidental open access fishery (0.62 mt), EFP catch (0.24 mt) and research catch (2.92 mt), resulting in a fishery HG of 43 mt. The non-trawl HG is 39.5 mt. The non-nearshore HG is 2.1 mt and the nearshore HG is 6.2 mt. Recreational HGs are: 10.2 mt (Washington); 9.1 mt (Oregon); and 11.9 mt (California). In addition, there are the following ACTs: Non-nearshore (1.7 mt), nearshore (4.9 mt), Washington recreational (8.1 mt), Oregon recreational (7.2 mt), and California recreational (9.4 mt).

[e] Arrowtooth flounder. 2,094.9 mt is deducted from the ACL to accommodate the Tribal fishery (2,041 mt), the incidental open access fishery (40.8 mt), EFP fishing (0.1 mt), and research catch (13 mt), resulting in a fishery HG of 10,655 mt.

[f] Big skate. 41.9 mt is deducted from the ACL to accommodate the Tribal fishery (15 mt), the incidental open access fishery (21.3 mt), EFP fishing (0.1 mt), and research catch (5.5 mt), resulting in a fishery HG of 452 mt.

[g] Black rockfish (California). 1.3 mt is deducted from the ACL to accommodate EFP fishing (1.0 mt) and the incidental open access fishery (0.3 mt), resulting in a fishery HG of 325 mt.

[h] Black rockfish (Washington). 18.1 mt is deducted from the ACL to accommodate the Tribal fishery (18 mt) and research catch (0.1 mt), resulting in a fishery HG of 279 mt.

[i] Bocaccio south of 40°10′ N lat. The stock is managed with stock-specific harvest specifications south of 40°10′ N lat. and within the Minor Shelf Rockfish complex north of 40°10′ N lat. 46.1 mt is deducted from the ACL to accommodate the incidental open access fishery (0.5 mt), EFP catch (40 mt) and research catch (5.6 mt), resulting in a fishery HG of 1,965 mt. The California recreational fishery has an HG of 827.2 mt.

[j] Cabezon (California). 0.3 mt is deducted from the ACL to accommodate the incidental open access fishery, resulting in a fishery HG of 146 mt.

[k] California scorpionfish south of 34°27′ N lat. 2.4 mt is deducted from the ACL to accommodate the incidental open access fishery (2.2 mt) and research catch (0.2 mt), resulting in a fishery HG of 305 mt.

[l] Canary rockfish. 67.1 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (1.3 mt), EFP catch (8 mt), and research catch (7.8 mt), resulting in a fishery HG of 1,301 mt. Recreational HGs are: 44.3 mt (Washington); 66.5 mt (Oregon); and 119.7 mt (California).

[m] Chilipepper rockfish south of 40°10′ N lat. Chilipepper are managed with stock-specific harvest specifications south of 40°10′N lat. and within the Minor Shelf Rockfish complex north of 40°10′ N lat. 84.9 mt is deducted from the ACL to accommodate the incidental open access fishery (11.5 mt), EFP fishing (60 mt), and research catch (13.4 mt), resulting in a fishery HG of 2,325 mt.

[n] Darkblotched rockfish. 33.8 mt is deducted from the ACL to accommodate the Tribal fishery (0.2 mt), the incidental open access fishery (24.5 mt), EFP catch (0.6 mt), and research catch (8.5 mt) resulting in a fishery HG of 781 mt.

[o] Dover sole. 1,595.6 mt is deducted from the ACL to accommodate the Tribal fishery (1,497 mt), the incidental open access fishery (49.3 mt), EFP fishing (0.1 mt), and research catch (49.2 mt), resulting in a fishery HG of 48,404 mt.

[p] English sole. 216.2 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (8.1 mt), EFP fishing (0.1 mt), and research catch (8 mt), resulting in a fishery HG of 9,919 mt.

[q] Lingcod north of 40°10′ N lat. 278 mt is deducted from the ACL for the Tribal fishery (250 mt), the incidental open access fishery (9.8 mt), EFP catch (1.6 mt) and research catch (16.6 mt), resulting in a fishery HG of 4,263 mt.

[r] Lingcod south of 40°10′ N lat. 11.3 mt is deducted from the ACL to accommodate the incidental open access fishery (8.1 mt) and research catch (3.2 mt), resulting in a fishery HG of 858 mt.

[s] Longnose skate. 148.3 mt is deducted from the ACL to accommodate the Tribal fishery (130 mt), incidental open access fishery (5.7 mt), EFP catch (0.1 mt), and research catch (12.5 mt), resulting in a fishery HG of 1,852 mt.

[t] Longspine thornyhead. 50.4 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (6.2 mt), and research catch (14.2 mt), resulting in a fishery HG of 2,420 mt.

[u] Longspine thornyhead south of 34°27′ N lat. 1.4 mt is deducted from the ACL to research catch, resulting in a fishery HG of 779 mt.

[v] Pacific cod. 506.2 mt is deducted from the ACL to accommodate the Tribal fishery (500 mt), EFP catch (0.1 mt), research catch (5.5 mt), and the incidental open access fishery (0.6 mt), resulting in a fishery HG of 1,094 mt.

[w] Pacific whiting. The 2020 OFL of 666,458 mt is based on the 2020 assessment with an F40% of FMSY proxy. The proposed 2020 coastwide adjusted Total Allowable Catch (TAC) is 575,000 mt. The U.S. TAC is 73.88 percent of the coastwide TAC. The proposed 2020 adjusted U.S. TAC is 424,810 mt (367,202 mt unadjusted TAC + 57,608 mt carryover adjustment). From the adjusted U.S. TAC, 74,342 mt is deducted to accommodate the Tribal fishery, and 1,500 mt is deducted to accommodate research and bycatch in other fisheries, resulting in a 2020 fishery HG of 348,968 mt. The TAC for Pacific whiting is established under the provisions of the Agreement with Canada on Pacific Hake/Whiting and the Pacific Whiting Act of 2006, 16 U.S.C. 7001–7010, and the international exception applies. Therefore, no ABC or ACL values are provided for Pacific whiting.

[x] Pacific ocean perch north of 40°10′ N lat. 22.4 mt is deducted from the ACL to accommodate the Tribal fishery (9.2 mt), the incidental open access fishery (10 mt), EFP fishing (0.1 mt), and research catch (3.1 mt)-resulting in a fishery HG of 4,207 mt.

[y] Petrale sole. 320.6 mt is deducted from the ACL to accommodate the Tribal fishery (290 mt), the incidental open access fishery (6.4 mt), EFP catch (0.1 mt), and research catch (24.1 mt), resulting in a fishery HG of 2,524 mt.

[z] Sablefish north of 36° N lat. The 40–10 adjustment is applied to the ABC to derive a coastwide ACL value because the stock is in the precautionary zone. This coastwide ACL value is not specified in regulations. The coastwide ACL value is apportioned north and south of 36° N lat., using the 2003–2014 average estimated swept area biomass from the NMFS NWFSC trawl survey, with 73.8 percent apportioned north of 36° N lat. and 26.2 percent apportioned south of 36° N lat. The northern ACL is 5,723 mt and is reduced by 572 mt for the Tribal allocation (10 perceN of the ACL north of 36° N lat.). The 572 mt Tribal allocation is reduced by 1.5 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 2c.

[aa] Sablefish south of 36° N lat. The ACL for the area south of 36° N lat. is 2,032 mt (26.2 percent of the calculated coastwide ACL value). 4.2 mt is deducted from the ACL to accommodate the incidental open access fishery (1.8 mt) and research catch (2.4 mt), resulting in a fishery HG of 2,028 mt.

[bb] Shortbelly rockfish. 17.2 mt is deducted from the ACL to accommodate the incidental open access fishery (8.9 mt), EFP catch (0.1 mt), and research catch (8.2 mt), resulting in a fishery HG of 2,983 mt.

[cc] Shortspine thornyhead north of 34°27′ N lat. 65.3 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (4.7 mt), EFP catch (0.1 mt), and research catch (10.5 mt), resulting in a fishery HG of 1,604 mt for the area north of 34°27′ N lat.

[dd] Shortspine thornyhead south of 34°27′ N lat. 1.2 mt is deducted from the ACL to accommodate the incidental open access fishery (0.5 mt) and research catch (0.7 mt), resulting in a fishery HG of 882 mt for the area south of 34°27′ N lat.

[ee] Spiny dogfish. 333 mt is deducted from the ACL to accommodate the Tribal fishery (275 mt), the incidental open access fishery (22.6 mt), EFP catch (1.1 mt), and research catch (34.3 mt), resulting in a fishery HG of 1,726 mt.

[ff] Splitnose rockfish south of 40°10′ N lat. Splitnose rockfish in the north is managed in the Slope Rockfish complex and with stock-specific harvest specifications south of 40°10′ N lat. 16.6 mt is deducted from the ACL to accommodate the incidental open access fishery (5.8 mt), research catch (9.3 mt) and EFP catch (1.5 mt), resulting in a fishery HG of 1,714 mt.

[gg] Starry flounder. 18.8 mt is deducted from the ACL to accommodate the Tribal fishery (2 mt), EFP catch (0.1 mt), research catch (0.6 mt), and the incidental open access fishery (16.1 mt), resulting in a fishery HG of 433 mt.

[hh] Widow rockfish. 248.4 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (3.1 mt), EFP catch (28 mt) and research catch (17.3 mt), resulting in a fishery HG of 10,951 mt.

[ii] Yellowtail rockfish north of 40°10′ N lat. 1,045.1 mt is deducted from the ACL to accommodate the Tribal fishery (1,000 mt), the incidental open access fishery (4.5 mt), EFP catch (20 mt) and research catch (20.6 mt), resulting in a fishery HG of 4,941 mt.

[jj] Black rockfishBlue rockfishDeacon rockfish (Oregon). 1.2 mt is deducted from the ACL to accommodate the incidental open access fishery (0.3 mt) and EFP catch (0.9 mt), resulting in a fishery HG of 609 mt.

[kk] CabezonKelp greenling (Oregon). 0.2 mt is deducted from the ACL to accommodate EFP catch, resulting in a fishery HG of 204 mt.

[ll] CabezonKelp greenling (Washington). There are no deductions from the ACL so the fishery HG is equal to the ACL of 10 mt.

[mm] Nearshore Rockfish north of 40°10′ N lat. 2.8 mt is deducted from the ACL to accommodate the Tribal fishery (1.5 mt), EFP catch (0.1 mt), research catch (0.3), and the incidental open access fishery (0.9 mt), resulting in a fishery HG of 79 mt.

[nn] Shelf Rockfish north of 40°10′ N lat. 76.9 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (17.7 mt), EFP catch (4.5 mt), and research catch (24.7 mt), resulting in a fishery HG of 1,971 mt.

[oo] Slope Rockfish north of 40°10′ N lat. 80.8 mt is deducted from the ACL to accommodate the Tribal fishery (36 mt), the incidental open access fishery (21.7 mt), EFP catch (1.5 mt), and research catch (21.6 mt), resulting in a fishery HG of 1,651 mt.

[pp] Nearshore Rockfish south of 40°10′ N lat. 4.1 mt is deducted from the ACL to accommodate the incidental open access fishery (1.4 mt) and research catch (2.7 mt), resulting in a fishery HG of 1,159 mt.

[qq] Shelf Rockfish south of 40°10′ N lat. 79.1 mt is deducted from the ACL to accommodate the incidental open access fishery (4.6 mt), EFP catch (60 mt), and research catch (14.5 mt), resulting in a fishery HG of 1,546 mt.

[rr] Slope Rockfish south of 40°10′ N lat. 20.2 mt is deducted from the ACL to accommodate the incidental open access fishery (16.9 mt), EFP catch (1 mt), and research catch (2.3 mt), resulting in a fishery HG of 723 mt. Blackgill rockfish has a stock-specific HG for the entire groundfish fishery south of 40°10′ N lat. set equal to the species' contribution to the 40–10-adjusted ACL. Harvest of blackgill rockfish in all groundfish fisheries south of 40°10′ N lat. counts against this HG of 159 mt.

[ss] Other Flatfish. The Other Flatfish complex is comprised of flatfish species managed in the PCGFMP that are not managed with stock-specific OFLs/ABCs/ACLs. MoS of the species in the Other Flatfish complex are unassessed and include: butter sole, curlfin sole, flathead sole, Pacific sanddab, rock sole, sand sole, and rex sole. 249.5 mt is deducted from the ACL to accommodate the Tribal fishery (60 mt), the incidental open access fishery (161.6 mt), EFP fishing (0.1 mt), and research catch (27.8 mt), resulting in a fishery HG of 5,792 mt.

[tt] Other Fish. The Other Fish complex is comprised of kelp greenling off California and leopard shark coastwide. 8.9 mt is deducted from the ACL to accommodate the incidental open access fishery (8.8 mt) and research catch (0.1 mt), resulting in a fishery HG of 230 mt.

■ 4. Revise table 2b to part 660, subpart C, to read as follows:

TABLE 2b TO PART 660, SUBPART C—2020, AND BEYOND, ALLOCATIONS BY SPECIES OR SPECIES GROUP

[Weight in metric tons]

Stocks/stock complexes	Area	Fishery HG or ACT [a b]	Trawl		Non-trawl	
			%	Mt	%	Mt
Arrowtooth flounder	Coastwide	10,655.1	95	10,122.3	5	532.8
Big skate [a]	Coastwide	452.1	95	429.5	5	22.6
Bocaccio [a]	S of 40°10′ N lat	1,964.9	39	767.1	61	1,197.8
Canary rockfish [a b]	Coastwide	1,300.9	72	940.3	28	360.6
Chilipepper rockfish	S of 40°10′ N lat	2,325.1	75	1,743.8	25	581.3
COWCOD [a]	S of 40°10′ N lat	9.0	36	3.2	64	5.8
Darkblotched rockfish [c]	Coastwide	781.2	95	742.1	5	39.1
Dover sole	Coastwide	48,404.4	95	45,984.2	5	2,420.2
English sole	Coastwide	9,918.8	95	9,422.9	5	495.9
Lingcod	N of 40′10° N lat	4,263.0	45	1,918.4	55	2,344.7
Lingcod	S of 40′10° N lat	857.7	45	386.0	55	471.7
Longnose skate [a]	Coastwide	1,851.7	90	1,666.5	10	185.2
Longspine thornyhead	N of 34°27′ N lat	2,419.6	95	2,298.6	5	121.0
Pacific cod	Coastwide	1,093.8	95	1,039.1	5	54.7
Pacific whiting [d]	Coastwide	348,968	100	348,968	0	0
Pacific ocean perch [e]	N of 40°10′ N lat	4,206.6	95	3,996.3	5	210.3

TABLE 2b TO PART 660, SUBPART C—2020, AND BEYOND, ALLOCATIONS BY SPECIES OR SPECIES GROUP—Continued

[Weight in metric tons]

Stocks/stock complexes	Area	Fishery HG or ACT [a b]	Trawl		Non-trawl	
			%	Mt	%	Mt
Petrale sole	Coastwide	2,524.4	95	2,398.2	5	126.2
Sablefish	N of 36° N lat	NA	See Table 2c			
Sablefish	S of 36° N lat	2,027.8	42	851.7	58	1,176.1
Shortspine thornyhead	N of 34°27′ N lat	1,603.7	95	1,523.5	5	80.2
Shortspine thornyhead	S of 34°27′ N lat	881.8	NA	50.0	NA	831.8
Splitnose rockfish	S of 40°10′ N lat	1,714.4	95	1,628.7	5	85.7
Starry flounder	Coastwide	433.2	50	216.6	50	216.6
Widow rockfish [f]	Coastwide	10,950.6	91	9,965.0	9	985.6
YELLOWEYE ROCKFISH	Coastwide	42.9	8	3.4	92	39.5
Yellowtail rockfish	N of 40°10′ N lat	4,940.9	88	4,348.0	12	592.9
Minor Shelf Rockfish North	N of 40°10′ N lat	1,971.1	60.2	1,186.6	39.8	784.5
Minor Shelf Rockfish South	S of 40°10′ N lat	1,545.9	12.2	188.6	87.8	1,357.3
Minor Slope Rockfish North	N of 40°10′ N lat	1,651.2	81	1,337.5	19	313.7
Minor Slope Rockfish South	S of 40°10′ N lat	722.8	63	455.4	37	267.4
Other Flatfish	Coastwide	5,791.5	90	5,212.4	10	579.2

[a] Allocations decided through the biennial specification process.

[b] 46 mt of the total trawl allocation of canary rockfish is allocated to the MS and C/P sectors, as follows: 30 mt for the MS sector, and 16 mt for the C/P sector.

[c] Consistent with regulations at § 660.55(c), 9 percent (66.8 mt) of the total trawl allocation for darkblotched rockfish is allocated to the Pacific whiting fishery, as follows: 28.1 mt for the Shorebased IFQ Program, 16.0 mt for the MS sector, and 22.7 mt for the C/P sector. The tonnage calculated here for the Pacific whiting IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).

[d] Consistent with regulations at § 660.55(i)(2), the commercial harvest guideline for Pacific whiting is allocated as follows: 34 percent (118,649 mt) for the C/P Coop Program; 24 percent (83,752 mt) for the MS Coop Program; and 42 percent (146,567 mt) for the Shorebased IFQ Program. No more than 5 percent of the Shorebased IFQ Program allocation (7,328 mt) may be taken and retained south of 42° N lat. before the start of the primary Pacific whiting season north of 42° N lat.

[e] Consistent with regulations at § 660.55(c), 17 percent (679.4 mt) of the total trawl allocation for Pacific ocean perch is allocated to the Pacific whiting fishery, as follows: 285.3 mt for the Shorebased IFQ Program, 163.0 mt for the MS sector, and 231.0 mt for the C/P sector. The tonnage calculated here for the Pacific whiting IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).

[f] Consistent with regulations at § 660.55(c), 10 percent (996.5 mt) of the total trawl allocation for widow rockfish is allocated to the whiting fisheries, as follows: 418.5 mt for the shorebased IFQ fishery, 239.2 mt for the mothership fishery, and 338.8 mt for the catcher/processor fishery. The tonnage calculated here for the whiting portion of the shorebased IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).

■ 5. In § 660.140, revise paragraph (d)(1)(ii)(D) to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(D) *Pacific whiting and non-whiting QP shorebased trawl allocations.* For the trawl fishery, NMFS will issue QP based on the following shorebased trawl allocations:

TABLE 1 TO PARAGRAPH (d)(1)(II)(D)

IFQ species	Area	2019 Shorebased trawl allocation (mt)	2020 Shorebased trawl allocation (mt)
Arrowtooth flounder	Coastwide	12,735.1	10,052.3
Bocaccio	South of 40°10′ N lat	800.7	767.1
Canary rockfish	Coastwide	953.6	894.3
Chilipepper	South of 40°10′ N lat	1,838.3	1,743.8
COWCOD	South of 40°10′ N lat	2.2	3.2
Darkblotched rockfish	Coastwide	658.4	703.4
Dover sole	Coastwide	45,979.2	45,979.2
English sole	Coastwide	9,375.1	9,417.9
Lingcod	North of 40°10′ N lat	2,051.9	1,903.4
Lingcod	South of 40°10′ N lat	462.5	386.0
Longspine thornyhead	North of 34°27′ N lat	2,420.0	2,293.6
Minor Shelf Rockfish complex	North of 40°10′ N lat	1,155.2	1,151.6
Minor Shelf Rockfish complex	South of 40°10′ N lat	188.6	188.6
Minor Slope Rockfish complex	North of 40°10′ N lat	1,248.8	1,237.5
Minor Slope Rockfish complex	South of 40°10′ N lat	456.0	455.4
Other Flatfish complex	Coastwide	5,603.7	5,192.4
Pacific cod	Coastwide	1,034.1	1,034.1
Pacific ocean perch	North of 40°10′ N lat	3,697.3	3,602.2
Pacific whiting	Coastwide	152,326.5	146,567
Petrale sole	Coastwide	2,453.0	2,393.2
Sablefish	North of 36° N lat	2,581.3	2,636.8

TABLE 1 TO PARAGRAPH (d)(1)(II)(D)—Continued

IFQ species	Area	2019 Shorebased trawl allocation (mt)	2020 Shorebased trawl allocation (mt)
Sablefish	South of 36° N lat	834.0	851.7
Shortspine thornyhead	North of 34°27′ N lat	1,506.8	1,493.5
Shortspine thornyhead	South of 34°27′ N lat	50.0	50.0
Splitnose rockfish	South of 40°10′ N lat	1,646.7	1,628.7
Starry flounder	Coastwide	211.6	211.6
Widow rockfish	Coastwide	9,928.8	9,387.1
YELLOWEYE ROCKFISH	Coastwide	3.4	3.4
Yellowtail rockfish	North of 40°10′ N lat	4,305.8	4,048.0

* * * * *

[FR Doc. 2020–08019 Filed 4–16–20; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 85, No. 75
Friday, April 17, 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.

AFRICAN DEVELOPMENT FOUNDATION

Public Quarterly Meeting of the Board of Directors

AGENCY: United States African Development Foundation. ACTION: Notice of meeting.

SUMMARY: The US African Development Foundation (USADF) will hold its quarterly meeting of the Board of Directors to discuss the agency's programs and administration. This meeting location will be held via teleconference. For teleconference details, see the provided contact information.

DATES: The meeting date is Tuesday, April 21, 2020, 10:30 a.m. to 12:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Nina-Belle Mbayu, (202) 233–8808, *nbmbayu@usadf.gov.*

Authority: Public Law 96–533 (22 U.S.C.§ 290h).

Dated: April 14, 2020.

Nina-Belle Mbayu,

Acting General Counsel.

[FR Doc. 2020–08177 Filed 4–16–20; 8:45 am]

BILLING CODE 6117–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 14, 2020.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by May 18, 2020 will be considered. 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

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Departmental Administration—Office of Safety, Security and Protection

Title: USDA PIV Request for Credential.

OMB Control Number: 0505–0022.

Summary of Collection: The Homeland Security Presidential Directive (HSPD)-12 information collection is required for establishing the applicant's identity for Personal Identity Verification (PIV) credential issuance. The information requested must be provided by Federal contractors and other applicable individuals (including all employees and some affiliates) when applying for a USDA PIV credential (identification card), also known as ''LincPass.'' The information is necessary to comply with the requirements outlined in Homeland Security Presidential Directive (HSPD) 12, and Federal Information Processing Standard (FIPS) 201–2. USDA has implemented an automated identity proofing, registration, and issuance process consistent with the requirements outlined in FIPS 201–2.

Need and Use of the Information: Information will be collected using form AD 1197, Request for USDA Identification (ID) Badge, to issue a site badge to grant individuals short term assess to facilities. USDA has chosen to use GSA's USAccess program for HSPD–12 credentialing and identity management. The automated system includes six separate and distinct roles to ensure no one single individual can issue a credential without further validation from another authorized role holder. An automated notification workflow provides streamlined communication between role holder and the applicant, notifying each as to the respective steps in the process. If the information is not collected, Federal and non-Federal employees may not be permitted in some facilities and will not be allowed access to government computer systems.

Description of Respondents: Individuals or households.

Number of Respondents: 12,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 24,000.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–08161 Filed 4–16–20; 8:45 am]

BILLING CODE 3412–BA–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0013]

Addition of Indonesia to the List of Regions Affected With African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we have added Indonesia to the list of regions that the Animal and Plant Health Inspection Service considers to be affected with African swine fever (ASF). We have taken this action because of confirmation of ASF in Indonesia.

DATES: Indonesia was added to the APHIS list of regions considered affected with ASF on December 13, 2019.

FOR FURTHER INFORMATION CONTACT: Dr. John Grabau, Regionalization Evaluation Services, Veterinary Services, APHIS, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606. Phone: (919) 855–7738; email: *John.H.Grabau@usda.gov.*

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products to prevent introduction into the United States of various animal diseases, including African swine fever (ASF). ASF is a highly contagious animal disease of wild and domestic swine. It can spread rapidly in swine populations with extremely high rates of morbidity and mortality. A list of regions where ASF exists or is reasonably believed to exist is maintained on the Animal and Plant Health Inspection Service (APHIS) website at *https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-and-animal-product-import-information/animal-health-status-of-regions/.* This list is referenced in § 94.8(a)(2) of the regulations.

Section 94.8(a)(3) of the regulations states that APHIS will add a region to the list referenced in § 94.8(a)(2) upon determining ASF exists in the region, based on reports APHIS receives of outbreaks of the disease from veterinary officials of the exporting country, from the World Organization for Animal Health (OIE), or from other sources the Administrator determines to be reliable, or upon determining that there is reason to believe the disease exists in the region. Section 94.8(a)(1) of the regulations specifies the criteria on which the Administrator bases the reason to believe ASF exists in a region. Section 94.8(b) prohibits importation of pork and pork products from regions listed in accordance with § 94.8 except if processed and treated in accordance with the provisions specified in that section or consigned to an APHIS-approved establishment for further processing. Section 96.2 restricts the importation of swine casings that originated in or were processed in a region where ASF exists, as listed under § 94.8(a).

On December 17, 2019, the veterinary authorities of the Republic of Indonesia reported to the OIE the occurrence of ASF in that country. This confirmation of the ASF outbreak supported APHIS' action on December 13, 2019, adding the Republic of Indonesia to the list of regions where ASF exists or is reasonably believed to exist. This notice serves as an official record and public notification of that action.

As a result, pork and pork products from Indonesia, including casings, are subject to APHIS import restrictions designed to mitigate the risk of ASF introduction into the United States.

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

Authority: 7 U.S.C. 1633, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 13th day of April 2020.

Mark Davidson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020–08081 Filed 4–16–20; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket No. RUS–20–WATER–0017]

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the United States Department of Agriculture's Rural Utilities Service (RUS) invites comments on this information collection for which approval from the Office of Management and Budget (OMB) will be requested.

DATES: Comments on this notice must be received by June 16, 2020.

FOR FURTHER INFORMATION CONTACT: Pamela Bennett, Rural Development Innovation Center, Regulations Management Division, U.S. Department of Agriculture, 1400 Independence Avenue SW, STOP 0793, Room 4015 South Building, Washington, DC 20250–0793. Telephone: (202) 720–9639. Email: *pamela.bennett@usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Rural Utilities Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select RUS–20–WATER–0017 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov,* including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Title: Technical Assistance Programs.

OMB Control Number: 0572–0112.

Type of Request: Extension of a currently approved collection.

Abstract: The Rural Utilities Service is authorized by section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public agencies, American Indian tribes, and nonprofit corporations to fund the development of drinking water, wastewater, and solid waste disposal facilities in rural areas with populations of up to 10,000 residents. Under the CONACT, 7 U.S.C. 1925(a), as amended, section 306(a) (14) (A) authorizes Technical Assistance and Training grants, and 7 U.S.C. 1932(b), section 310B authorizes Solid Waste Management grants. Grants are made for 100 percent of the cost of assistance. The Technical Assistance and Training Grants and Solid Waste Management Grants programs are administered through 7 CFR part 1775.

Estimate of Burden: Public reporting for this collection of information is estimated to average 3 hours per response.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 65.

Estimated Number of Responses per Respondent: 19.

Estimated Total Annual Burden on Respondents: 4,620.

Copies of this information collection can be obtained from Pamela Bennett, Rural Development Innovation Center, Regulations Management Division, at (202) 720–9639. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Chad Rupe,

Administrator,Rural Utilities Service.

[FR Doc. 2020–08151 Filed 4–16–20; 8:45 am]

BILLING CODE 3410–15–P

CIVIL RIGHTS COMMISSION

Notice of Public Meeting of the Washington Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Washington Advisory Committee (Committee) will hold a meeting via teleconference on Friday, May 8, 2020 at 2:00 p.m. Pacific Time. The purpose of the meeting for the Committee to discuss their hearing on Voting Rights and Felony Convictions in Washington.

DATES: The meeting will be held on Friday, May 8, 2020 at 200 p.m. PT

Public call information: Dial: 800–263–0877; Conference ID: 8372674.

FOR FURTHER INFORMATION CONTACT: Brooke Peery, Designated Federal Officer (DFO), at *bpeery@usccr.gov* or (202) 701–1376.

SUPPLEMENTARY INFORMATION: Members of the public may listen to the discussion. This meeting is available to the public through the above listed toll free number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit Office, U.S. Commission on Civil Rights, 300 N. Los Angeles St., Suite 2010, Los Angeles, CA 90012 or emailed to Angelica Trevino at *atrevino@usccr.gov.*

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available at: *https://www.facadatabase.gov/FACA/apex/FACAPublicCommittee?id=a10t0000001gzmYAAQ* Please click on the ''Meeting Details'' and ''Documents'' links. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit office at the above email or street address.

Agenda:

I. Welcome and Roll Call
II. Approval of Minutes from March 30, 2020 Hearing
III. Discussion of Testimony
IV. Public Comment
V. Adjournment

April 13, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–08098 Filed 4–16–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–28–2020]

Approval of Subzone Expansion, Winnebago Industries, Inc., Forest City and Charles City, Iowa

On February 11, 2020, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Iowa Foreign Trade Zone Corporation, grantee of FTZ 107, requesting an expansion of Subzone 107A subject to the existing activation limit of FTZ 107 on behalf of Winnebago Industries, Inc., in Forest City and Charles City, Iowa.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (85 FR 9734–9735, February 20, 2020). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR Sec. 400.36(f)), the application to expand Subzone 107A was approved on April 13, 2020, subject to the FTZ Act and the Board's regulations, including Section 400.13, and further subject to FTZ 107's 2,000-acre activation limit.

Dated: April 13, 2020.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2020–08139 Filed 4–16–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–916]

Laminated Woven Sacks From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review; 2018–2019

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

SUMMARY: The Department of Commerce (Commerce) preliminarily finds that 20 companies subject to the administrative review of the antidumping duty (AD) order on laminated woven sacks (LWS) from the People's Republic of China (China) are part of the China-wide entity because none filed a separate rate application (SRA) or separate rate certification (SRC). The period of review (POR) is August 1, 2018 through July 31, 2019. Interested parties are invited to comment on these preliminary results.

DATES: Applicable April 17, 2020.

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta, 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) 482–2593.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 2019, Commerce published a notice of opportunity to

request an administrative review of the AD order on LWS from China.[1]

Pursuant to a request from Laminated Woven Sacks Fair Trade Coalition and its individual members, Polytex Fibers Corporation and ProAmpac Holdings Inc. (collectively, the petitioners),[2] Commerce initiated an administrative review with respect to 20 companies: Cangnan Color Make The Bag, Changle Baodu Plastic Co., Ltd., First Way (H.K.) Limited, Han Shing Chemical Co., Ltd., Jiangsu Hotson Plastics Co., Ltd., Ningbo Yong Feng Packaging Co., Ltd., Polywell Industrial Co., Polywell Plastic Product Factory, Shandong Longxing Plastic Products Company Ltd., Shandong Qikai Plastics Product Co., Ltd., Shandong Qilu Plastic Fabric Group, Ltd., Shandong Shouguang Jianyuan Chun Co., Ltd., Shandong Youlian Co., Ltd., Wenzhou Hotson Plastics Co., Ltd., Zibo Aifudi Plastic Packaging Co., Ltd., Zibo Linzi Luitong Plastic Fabric Co., Ltd., Zibo Linzi Qitianli Plastic Fabric Co., Ltd., Zibo Linzi Shuaiqiang Plastics Co., Ltd., Zibo Linzi Worun Packing Product Co., Ltd., and Zibo Qigao Plastic Cement Co., Ltd.[3] The deadline for interested parties to submit an SRA or an SRC was November 6, 2019.[4] No party submitted an SRA or an SRC.[5]

Scope of the Order

The product covered by this order is laminated woven sacks. Laminated woven sacks are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene (BOPP) or to an exterior ply of paper that is suitable for high quality print graphics. Effective July 1, 2007, laminated woven sacks are classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 6305.33.0050 and 6305.33.0080. Laminated woven sacks were previously classifiable under HTSUS subheading 6305.33.0020. The HTSUS subheadings are provided for convenience and customs purposes only; the written product description of the scope of the order is dispositive. For a full description of the scope of the order, *see* the appendix to this notice.

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213.

Preliminary Results of Review

Commerce no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an AD administrative review.[6] Accordingly, the NME entity will not be under review unless Commerce specifically receives a request for, or self-initiates, a review of the NME entity.[7] Commerce considers China to be a NME country [8] and, in accordance with section 771(18)(C)(i) of the Act, we continue to treat China as a NME country for purposes of this administrative review. In this administrative review, no party requested a review of the China-wide entity and we have not self-initiated a review of the China-wide entity. Because no review of the China-wide entity is being conducted, the China-wide entity's entries are not subject to the review and the rate applicable to the NME entity is not subject to change as a result of this review.

In proceedings involving NME countries, such as China, Commerce maintains a rebuttable presumption that the export activities of all companies within the country are subject to government control.[9] It is Commerce's policy to assign all exporters of the subject merchandise from an NME country a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports.[10] In the *Initiation Notice,* Commerce notified parties of the application process by which companies may obtain separate rate status in NME proceedings.[11] To demonstrate separate rate eligibility, Commerce normally requires a company for which a review was requested, and which was assigned a separate rate in the most recent segment of the proceeding in which the company participated, to submit an SRC stating that it continues to meet the criteria for obtaining a separate rate.[12] For a company that was not assigned a separate rate in a previous segment of the proceeding, however, Commerce requires an SRA to demonstrate separate rate eligibility.[13] The deadline for interested parties to submit an SRA or SRC in this administrative review was November 6, 2019.[14] None of the 20 companies subject to this review filed an SRA or SRC. Commerce preliminarily determines that these companies have not demonstrated their eligibility for separate rate status. As such, Commerce also preliminarily determines that the companies subject to review are part of the China-wide entity. The China-wide entity rate is 91.73 percent.[15]

Public Comment

Interested parties are invited to comment on these preliminary results and may submit case briefs and/or written comments, filed electronically via Enforcement and Compliance's Antidumping and Countervailing Duty

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 37834 (August 2, 2019).

[2] *See* Petitioners' Letter, ''Laminated Woven Sacks from the People's Republic of China: Request for Antidumping Administrative Review,'' dated August 30, 2019.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 53411 (October 7, 2019) (*Initiation Notice*).

[4] *See Initiation Notice,* 84 FR at 53413 (''Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. . . . Separate Rate Status Applications are due to Commerce no later than 30 calendar days of publication of this **Federal Register** notice'').

[5] *Id.*

[6] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Non-Market Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65970 (November 4, 2013).

[7] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their requests.

[8] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair-Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017) (citing Memorandum, ''China's Status as a Non-Market Economy,'' dated October 26, 2017), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 83 FR 9282 (March 5, 2018), and accompanying Issues and Decision Memorandum at Comment 1.

[9] *See* Policy Bulletin 05.1, Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, dated April 15, 2005, available at *https://enforcement.trade.gov/policy/bull05-1.pdf.*

[10] *Id.*

[11] *See Initiation Notice,* 84 FR at 53412–13.

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *See Laminated Woven Sacks from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Determination Under Section 129 of the Uruguay Round Agreements Act,* 81 FR 23457 (April 21, 2016); *see also Notice of Antidumping Duty Order: Laminated Woven Sacks from the People's Republic of China,* 73 FR 45941 (August 7, 2008); *Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Certain New Pneumatic Off-the-Road Tires; Circular Welded Carbon Quality Steel Pipe; Laminated Woven Sacks; and Light-Walled Rectangular Pipe and Tube from the People's Republic of China,* 77 FR 52683 (August 30, 2012).

Centralized Electronic Service System (ACCESS) within 30 days after the date of publication of these preliminary results of review.[16] ACCESS is available to registered users at *http://access.trade.gov.* Rebuttal briefs, limited to issues raised in the case briefs, must be filed within seven days after the time limit for filing case briefs.[17] Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a brief summary of the argument, and a table of authorities.[18] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until May 19, 2020, unless extended.[19]

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to Commerce within 30 days of the date of publication of this notice.[20] Hearing requests should contain: (1) The party's name, address, 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 those raised in the respective case and rebuttal briefs.[21] If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.[22]

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of all issues raised in the case briefs, within 120 days of the publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.[23] We intend to instruct CBP to liquidate entries containing subject merchandise exported by the companies under review that we determine in the final results to be part of the China-wide entity at the China-wide entity rate of 91.73 percent. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review in the **Federal Register**.[24]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed Chinese and non-Chinese exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the China-wide entity (*i.e.,* 91.73 percent); and (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a reminder to importers of their responsibility under 19 CFR 315.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h) and 351.221(b)(4).

Dated: April 10, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Order

The merchandise covered by the order is laminated woven sacks. Laminated woven sacks are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene (''BOPP'') or to an exterior ply of paper that is suitable for high quality print graphics;[25] printed with three colors or more in register; with or without lining; whether or not closed on one end; whether or not in roll form (including sheets, lay-flat tubing, and sleeves); with or without handles; with or without special closing features; not exceeding one kilogram in weight. Laminated woven sacks are typically used for retail packaging of consumer goods such as pet foods and bird seed.

Effective July 1, 2007, laminated woven sacks are classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 6305.33.0050 and 6305.33.0080. Laminated woven sacks were previously classifiable under HTSUS subheading 6305.33.0020. Laminated woven sacks are also classifiable under HTSUS 6305.33.0040. If entered with plastic coating on both sides of the fabric consisting of woven polypropylene strip and/or woven polyethylene strip, laminated woven sacks may be classifiable under HTSUS subheadings 3923.21.0080, 3923.21.0095, and 3923.29.0000. If entered not closed on one end or in roll form (including sheets, lay-flat tubing, and sleeves), laminated woven sacks may be classifiable under other HTSUS subheadings including 3917.39.0050, 3921.90.1100, 3921.90.1500, and 5903.90.2500. If the polypropylene strips and/or polyethylene strips making up the fabric measure more than 5 millimeters in width, laminated woven sacks may be classifiable under other HTSUS subheadings including 4601.99.0500, 4601.99.9000, and 4602.90.0000. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

[FR Doc. 2020–08136 Filed 4–16–20; 8:45 am]

BILLING CODE 3510–DS–P

[16] *See* 19 CFR 351.309(c)(1)(ii).

[17] *See* 19 CFR 351.309(d)(1) and (2); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020) (*Temporary Rule*) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications are in effect)'').

[18] *See* 19 CFR 351.309(c)(2) and 351.309(d)(2).

[19] *See Temporary Rule.*

[20] *See* 19 CFR 351.310(c).

[21] *Id.*

[22] *See* 19 CFR 351.310(d)(1).

[23] *See* 19 CFR 351.212(b)(1).

[24] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

[25] ''Paper suitable for high quality print graphics,'' as used herein, means paper having an ISO brightness of 82 or higher and a Sheffield Smoothness of 250 or less. Coated free sheet is an example of a paper suitable for high quality print graphics.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–814, A–580–899, A–791–824]

Acetone From Belgium, the Republic of South Africa, and the Republic of Korea: Correction to Antidumping Duty Orders

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

SUMMARY: The Department of Commerce (Commerce) is correcting the antidumping duty (AD) orders on acetone from Belgium, the Republic of South Africa (South Africa), and the Republic of Korea (Korea).

DATES: Applicable April 17, 2020.

FOR FURTHER INFORMATION CONTACT: Alex Cipolla, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4956.

SUPPLEMENTARY INFORMATION: On March 31, 2020, Commerce published in the **Federal Register** the antidumping duty orders for acetone from Belgium, South Africa, and Korea.[1] Pursuant to section 733(d) of the Act, suspension of liquidation instructions issued pursuant to an affirmative preliminary AD determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request Commerce to extend that four-month period to no more than six months. In the *Orders,* we erroneously stated that the six-month period, beginning on the date of publication of the *Preliminary Determinations*,[2] ended on March 22, 2020.[3] However, the 180-day period, beginning on the date of publication of the *Preliminary Determinations,* ended on March 21, 2020.

AD duties will be assessed on unliquidated entries of acetone from Belgium, South Africa, and Korea entered, or withdrawn from warehouse, for consumption on or after September 24, 2019 (which is the date of publication of the *Preliminary Determinations*), but will not be assessed on entries occurring after the expiration of the provisional measures period on March 21, 2020, and before publication of the International Trade Commission's final affirmative injury determinations. No other changes have been made to the *Orders.*

These corrected orders are published in accordance with sections 706(a) and 736(a) of the Act and 19 CFR 351.211(b).

Dated: April 13, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–08140 Filed 4–16–20; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Acetone from Belgium, the Republic of South Africa, and the Republic of Korea: Antidumping Duty Orders,* 85 FR 17866 (March 31, 2020) (*Orders*).

[2] *See Acetone from Belgium: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 84 FR 49999 (September 24, 2019); *see also Acetone from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 84 FR 50005 (September 24, 2019); and *Acetone from the Republic of South Africa: Preliminary Affirmative Determination of Sales and Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 84 FR 49984 (September 24, 2019) (collectively, *Preliminary Determinations*).

[3] *See Orders* at 17867.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–871]

Finished Carbon Steel Flanges From India: Final Results of Antidumping Duty Administrative Review; 2017–2018

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

SUMMARY: The Department of Commerce (Commerce) finds that the producers/exporters subject to this administrative review made sales of finished carbon steel flanges (flanges) from India at less than normal value during the period of review (POR), February 8, 2017 through July 31, 2018.

DATES: Applicable April 17, 2020.

FOR FURTHER INFORMATION CONTACT: Fred Baker, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2924.

SUPPLEMENTARY INFORMATION:

Background

This administrative review covers 37 producers/exporters of the subject merchandise. Commerce selected two companies, the Norma Group [1] and R.N. Gupta & Co. Ltd. (Gupta) for individual examination as the mandatory respondents in this administrative review.[2] On October 29, 2019, Commerce published the *Preliminary Results* of this administrative review and invited interested parties to comment.[3] On December 2, 2019, Norma Group submitted its case brief.[4] On the same day, Weldbend Corporation and Boltex Manufacturing Co., L.P. (collectively, the petitioners), submitted two case briefs, one related to Norma Group and one related to Gupta.[5] On December 9, 2019, Norma Group and Gupta each submitted a rebuttal brief.[6] However, Commerce rejected Gupta's rebuttal brief on February 7, 2020, because it contained untimely submitted factual information.[7] Gupta submitted a redacted version of its original rebuttal brief on February 10, 2020.[8] No other party submitted case or rebuttal briefs. On February 13, 2020, we extended the deadline for these final results, until April 10, 2020.[9]

[1] The Norma Group consists of the following companies: Norma (India) Limited (Norma), USK Exports Private Limited, Uma Shanker Khandelwal & Co., and Bansidhar Chiranjilal. The agency collapsed these companies for purposes of respondent selection because they were collapsed in a prior segment of this proceeding (*i.e.,* investigation). *See Finished Carbon Steel Flanges from India: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 82 FR 9719 (February 8, 2017), and accompanying Preliminary Determination Memorandum at 4 (collectively, *Preliminary Determination*); *unchanged in Finished Carbon Steel Flanges from India: Final Determination of Sales at Less Than Fair Value,* 82 FR 29483 (June 29, 2017) (*Final Determination*). Norma Group presented evidence that the factual basis on which Commerce made its prior determination has not changed. *See* Norma Group's March 1, 2019 Supplemental Questionnaire Response (Norma Group March 1, 2019 SQR) at 12–20. Accordingly, we continue to collapse and treat these companies as a single entity for purposes of this proceeding.

[2] *See* Memorandum, ''Antidumping Duty Administrative Review of Finished Carbon Steel Flanges from India: Respondent Selection,'' dated November 9, 2018.

[3] *See Finished Carbon Steel Flanges from India: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 57848 (October 29, 2019), and accompanying Preliminary Decision Memorandum (collectively, the *Preliminary Results*).

[4] *See* Norma Group's Case Brief, ''Finished Carbon Steel Flanges from India: Norma's Comments on the Preliminary Results,'' dated December 2, 2019.

[5] *See* Petitioners' Case Briefs, ''Finished Carbon Steel Flanges from India: Case Brief—Weldbend Corporation and Boltex Manufacturing Co., L.P.,'' dated December 2, 2019.

[6] *See* Norma Group's Rebuttal Brief, ''Finished Carbon Steel Flanges from India: Norma's Rebuttal Comments,'' dated December 9, 2019.

[7] *See* Commerce Letter, ''Finished Carbon Steel Flanges from India: Rejection of Rebuttal Brief,'' dated February 7, 2020.

[8] *See* Gupta Rebuttal Brief, ''Finished Carbon Steel Flanges from India: Redacted Rebuttal Brief of R.N. Gupta & Company Limited,'' dated February 10, 2020.

[9] *See* Memorandum, ''Finished Carbon Steel Flanges from India: Extension of Deadline for Final

Continued

Scope of the Order [10]

The scope of the *Order* covers finished carbon steel flanges. Finished carbon steel flanges are currently classified under subheadings 7307.91.5010 and 7307.91.5050 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also be entered under HTSUS subheadings 7307.91.5030 and 7307.91.5070. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.[11]

Analysis of Comments Received

All issues raised by the parties in their case and rebuttal briefs are listed in the appendix to this notice and addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of the comments received, and for the reasons explained in the Issues and Decision Memorandum, Commerce made certain changes to the preliminary weighted-average dumping margin for the Norma Group, and the companies not selected for individual examination in this administrative review.

Final Results of Administrative Review

For these final results, we determine that the following weighted-average dumping margins exist for the period February 8, 2017 through July 31, 2018:

Producers/exporters	Weighted-average dumping margin (percent)
R.N. Gupta & Co., Ltd	1.20
Norma (India) Limited/USK Exports Private Limited/Uma Shanker Khandelwal & Co./Bansidhar Chiranjilal [12]	0.00
Adinath International	1.20
Allena Group	1.20
Alloyed Steel	1.20
Bebitz Flanges Works Private Limited	1.20
C.D. Industries	1.20
CHW Forge Pvt. Ltd [13]	1.20
CHW Forge	1.20
Citizen Metal Depot	1.20
Corum Flange	1.20
DN Forge Industries	1.20
Echjay Forgings Limited	1.20
Falcon Valves and Flanges Private Limited	1.20
Heubach International	1.20
Hindon Forge Pvt. Ltd	1.20
Jai Auto Private Limited	1.20
Kinnari Steel Corporation	1.20
M F Rings and Bearing Races Ltd	1.20
Mascot Metal Manufactures	1.20
OM Exports	1.20
Punjab Steel Works (PSW)	1.20
R. D. Forge	1.20
Raaj Sagar Steels	1.20
Ravi Ratan Metal Industries	1.20
Rolex Fittings India Pvt. Ltd	1.20
Rollwell Forge Pvt. Ltd	1.20
SHM (ShinHeung Machinery)	1.20
Siddhagiri Metal & Tubes	1.20
Sizer India	1.20
Steel Shape India	1.20
Sudhir Forgings Pvt. Ltd	1.20
Tirupati Forge	1.20
Umashanker Khandelwal Forging Limited	1.20

Rate for Non-Selected Respondents

For the rate for non-selected respondents in an administrative review, generally, Commerce looks to section 735(c)(5) of the Tariff Act of 1930, as amended (the Act), which provides instructions for calculating the all-others rate in a market economy investigation. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers

Results of Antidumping Duty Administrative Review,'' dated February 13, 2020.

[10] *See Finished Carbon Steel Flanges from India and Italy: Antidumping Duty Orders,* 82 FR 40136 (August 24, 2017) (the *Order*).

[11] *See* Memorandum, ''Issues and Decisions Memorandum for the Final Results of Administrative Review: Finished Carbon Steel Flanges from India; 2017–2018,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decisions Memorandum).

individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.'' In this segment of the proceeding, we calculated a weighted-average dumping margin for Gupta that was not zero, *de minimis,* or based on facts available. Accordingly, we applied the weighted-average dumping margin calculated for Gupta to the non-individually examined respondents.

Disclosure of Calculations

We intend to disclose the calculations performed for these final results to parties in this proceeding within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. For Gupta, because its weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent), Commerce has calculated importer-specific antidumping duty assessment rates. We calculated importer-specific *ad valorem* antidumping duty assessment rates by aggregating the total amount of dumping calculated for the examined sales of each importer and dividing each of these amounts by the total entered value associated with those sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review where an importer-specific assessment rate is not zero or *de minimis.* Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the importer-specific assessment rate is zero or *de minimis.*

For Norma, we will instruct CBP to liquidate its entries during the POR imported by the importers identified in its questionnaire responses without regard to antidumping duties because its weighted-average dumping margin in these final results is zero.[14]

For companies that were not selected for individual examination, we will instruct CBP to liquidate unreviewed entries based on the methodology described in the ''Rate for Non-Selected Respondents'' section, above.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by any company upon which we initiated an administrative review, for which they did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[15]

We intend to issue instructions to CBP 15 days after publication of the final results of this administrative review.

Cash Deposit Requirements

The following deposit requirements for estimated antidumping duties will be effective upon publication of the notice of these final results of review for all shipments of flanges from India entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates established in these final results of review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, then the cash deposit rate will be the rate established for the most recent period for the producer of the subject merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 8.91 percent,[16] the all-others rate established in the less-than-fair-value investigation. These cash deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing notice of these final results in accordance with sections 751(a) and 777(i)(1) of the Act. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until May 19, 2020, unless extended.[17]

Dated: April 10, 2020.

Jeffrey I. Kessler,

Assistant Secretaryfor Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Changes from the Preliminary Results
V. Discussion of the Issues
  Comment 1: Gupta's Scrap Offset
  Comment 2: Gupta's Interest Income Offset
  Comment 3: Operating Expenses of Bansidhar Chiranjilal
  Comment 4: Ministerial Error

[12] Commerce previously collapsed these companies for purposes of respondent selection, because they were collapsed in a prior segment of this proceeding (*i.e.,* investigation). *See Preliminary Determination); unchanged in Final Determination.* Norma Group presented evidence that the factual basis on which Commerce made its prior determination has not changed. *See* Norma Group March 1, 2019 SQR at 12–20. Accordingly, we continue to collapse and treat these companies as a single entity for purposes of this proceeding.

[13] The name of this company was incorrected spelled ''CHQ Forge Pvt. Ltd.'' in the initiation notice. *See* Petitioners' Letter, ''Finished Carbon Steel Flanges from India: Request for Administrative Review,'' dated August 31, 2018; and *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 83 FR 50077 (October 4, 2018).

[14] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8103, 8103 (February 14, 2012).

[15] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[16] *See Order,* 82 FR at 40138 (August 24, 2017).

[17] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020).

VI. Recommendation

[FR Doc. 2020–08137 Filed 4–16–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Request for Nominations for Members To Serve on National Institute of Standards and Technology Federal Advisory Committees

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST or Institute) invites and requests nomination of individuals for appointment to seven existing Federal Advisory Committees (Committees): Board of Overseers of the Malcolm Baldrige National Quality Award; Judges Panel of the Malcolm Baldrige National Quality Award; Information Security and Privacy Advisory Board; Manufacturing Extension Partnership Advisory Board; National Construction Safety Team Advisory Committee; Advisory Committee on Earthquake Hazards Reduction; and Visiting Committee on Advanced Technology. NIST will consider nominations received in response to this notice for appointment to the Committees, in addition to nominations already received. Registered Federal lobbyists may not serve on NIST Federal Advisory Committees in an individual capacity.

DATES: Nominations for all Committees will be accepted on an ongoing basis and will be considered as and when vacancies arise.

ADDRESSES: See below.

SUPPLEMENTARY INFORMATION:

Board of Overseers of the Malcolm Baldrige National Quality Award

Address: Please submit nominations to Robert Fangmeyer, Director, Baldrige Performance Excellence Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020. Nominations may also be submitted via fax to 301–975–4967. Additional information regarding the Committee, including its charter, current membership list, and executive summary, may be found at *http://www.nist.gov/baldrige/community/overseers.cfm.*

Contact Information: Robyn Verner, Designated Federal Officer, Baldrige Performance Excellence Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020; telephone 301–975–2361; fax 301–975–4967; or via email at *robyn.verner@nist.gov.*

Committee Information

The Board of Overseers of the Malcolm Baldrige National Quality Award (Board) was established in accordance with 15 U.S.C. 3711a(d)(2)(B), pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Board shall review the work of the private sector contractor(s), which assists the Director of NIST in administering the Malcolm Baldrige National Quality Award (Award). The Board will make such suggestions for the improvement of the Award process as it deems necessary.

2. The Board shall make an annual report on the results of Award activities to the Director of NIST, along with its recommendations for the improvement of the Award process.

3. The Board will function solely as an advisory committee under the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

4. The Board will report to the Director of NIST.

Membership

1. The Board will consist of at least five and approximately 12 members selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance, and for their preeminence in the field of organizational performance excellence. There will be a balanced representation from U.S. service, manufacturing, nonprofit, education, and health care industries. The Board will include members familiar with the quality, performance improvement operations, and competitiveness issues of manufacturing companies, service companies, small businesses, nonprofits, health care providers, and educational institutions.

2. Board members will be appointed by the Secretary of Commerce for three-year terms and will serve at the discretion of the Secretary. All terms will commence on March 1 and end on the last day of February of the appropriate years.

Miscellaneous

1. Members of the Board shall serve without compensation, but may, upon request, be reimbursed travel expenses, including per diem, as authorized by 5 U.S.C. 5701 *et seq.*

2. The Board will meet at least annually, but usually two times a year. Additional meetings may be called as deemed necessary by the NIST Director or by the Chairperson. Meetings are usually one day in duration.

3. Board meetings are open to the public. Board members do not have access to classified or proprietary information in connection with their Board duties.

Nomination Information

1. Nominations are sought from the private and public sector as described above.

2. Nominees should have established records of distinguished service and shall be familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, educational institutions, health care providers, and nonprofit organizations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on Federal advisory boards and Federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the Board, and will actively participate in good faith in the tasks of the Board. Besides participation at meetings, it is desired that members be able to devote the equivalent of seven days between meetings to either developing or researching topics of potential interest, and so forth, in furtherance of their Board duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Board membership.

Judges Panel of the Malcolm Baldrige National Quality Award

Address: Please submit nominations to Robert Fangmeyer, Director, Baldrige Performance Excellence Program, NIST, 100 Bureau Drive Mail Stop 1020, Gaithersburg, MD 20899–1020. Nominations may also be submitted via fax to 301–975–4967. Additional information regarding the Committee, including its charter, current membership list, and executive summary, may be found at *https://www.nist.gov/baldrige/how-baldrige-*

works/baldrige-community/judges-panel.

Contact Information: Robyn Verner, Designated Federal Officer, Baldrige Performance Excellence Program, NIST, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, MD 20899–1020; telephone 301–975–2361; fax 301–975–4967; or via email at *robyn.verner@nist.gov.*

Committee Information

The Judges Panel of the Malcolm Baldrige National Quality Award (Panel) was established in accordance with 15 U.S.C. 3711a(d)(1) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Panel will ensure the integrity of the Malcolm Baldrige National Quality Award (Award) selection process. Based on a review of results of examiners' scoring of written applications, Panel members will vote on which applicants' merit site visits by examiners to verify the accuracy of quality improvements claimed by applicants. The Panel will also review results and findings from site visits, and recommend Award recipients.

2. The Panel will ensure that individual judges will not participate in the review of applicants as to which they have any real or perceived conflict of interest.

3. The Panel will function solely as an advisory body, and will comply with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

4. The Panel will report to the Director of NIST.

Membership

1. The Panel will consist of no less than 9, and not more than 12, members selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance. There will be a balanced representation from U.S. service, manufacturing, small business, nonprofit, education, and health care industries. The Panel will include members familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, nonprofits, health care providers, and educational institutions.

2. Panel members will be appointed by the Secretary of Commerce for three-year terms and will serve at the discretion of the Secretary. All terms will commence on March 1 and end on the last day of February of the appropriate year.

Miscellaneous

1. Members of the Panel shall serve without compensation, but may, upon request, be reimbursed travel expenses, including per diem, as authorized by 5 U.S.C. 5701 *et seq.*

2. The Panel will meet three times per year. Additional meetings may be called as deemed necessary by the NIST Director or by the Chairperson. Meetings are usually one to four days in duration. In addition, each Judge must attend an annual three-day Examiner training course.

3. When approved by the Department of Commerce Chief Financial Officer and Assistant Secretary for Administration, Panel meetings are closed or partially closed to the public.

Nomination Information

1. Nominations are sought from all U.S. service and manufacturing industries, small businesses, education, health care, and nonprofits as described above.

2. Nominees should have established records of distinguished service and shall be familiar with the quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, health care providers, educational institutions, and nonprofit organizations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the Panel, and will actively participate in good faith in the tasks of the Panel. Besides participation at meetings, it is desired that members be either developing or researching topics of potential interest, reading Baldrige applications, and so forth, in furtherance of their Panel duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Panel membership.

Information Security and Privacy Advisory Board (ISPAB)

Address: Please submit nominations to Jeffrey Brewer, NIST, 100 Bureau Drive, Mail Stop 8930, Gaithersburg, MD 20899–8930. Nominations may also be submitted via fax to 301–975–8670, Attn: ISPAB Nominations. Additional information regarding the ISPAB, including its charter and current membership list, may be found on its electronic home page at *http://csrc.nist.gov/groups/SMA/ispab/index.html.*

Contact Information: Jeffrey Brewer, ISPAB Designated Federal Officer (DFO), NIST, 100 Bureau Drive, Mail Stop 8930, Gaithersburg, MD 20899–8930; telephone 301–975–2489; fax: 301–975–8670; or via email at *jeffrey.brewer@nist.gov.*

Committee Information

The ISPAB (Committee or Board) was originally chartered as the Computer System Security and Privacy Advisory Board by the Department of Commerce pursuant to the Computer Security Act of 1987 (Pub. L. 100–235). The E-Government Act of 2002 (Pub. L. 107–347, Title III), amended Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–4), including changing the Committee's name, and the charter was amended accordingly.

Objectives and Duties

1. The Board will identify emerging managerial, technical, administrative, and physical safeguard issues relative to information security and privacy.

2. The Board will advise NIST, the Secretary of Homeland Security, and the Director of the Office of Management and Budget (OMB) on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed by NIST.

3. The Board shall report to the Director of NIST.

4. The Board reports annually to the Secretary of Commerce, the Secretary of Homeland Security, the Director of OMB, the Director of the National Security Agency, and the appropriate committees of the Congress.

5. The Board will function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Membership

1. The Director of NIST will appoint the Chairperson and the members of the ISPAB, and members serve at the discretion of the NIST Director. Members will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

2. The ISPAB will consist of a total of 12 members and a Chairperson, for a total of 13.

• The Board will include four members from outside the Federal Government who are eminent in the information technology industry, at least one of whom is representative of small or medium sized companies in such industries.

• The Board will include four members from outside the Federal Government who are eminent in the fields of information technology, or related disciplines, but who are not employed by or representative of a producer of information technology.

• The Board will include four members from the Federal Government who have information system management experience, including experience in information security and privacy, at least one of whom shall be from the National Security Agency.

Miscellaneous

1. Members of the Board, other than full-time employees of the Federal government, will not be compensated for their services, but will, upon request, be allowed travel expenses pursuant to 5 U.S.C. 5701 *et seq.,* while otherwise performing duties at the request of the Board Chairperson, while away from their homes or a regular place of business.

2. Meetings of the ISPAB are usually two to three days in duration and are usually held quarterly. ISPAB meetings are open to the public, including the press. Members do not have access to classified or proprietary information in connection with their ISPAB duties.

Nomination Information

1. Nominations are being accepted in all three categories described above.

2. Nominees should have specific experience related to information security or privacy issues, particularly as they pertain to Federal information technology. Letters of nomination should include the category of membership for which the candidate is applying and a summary of the candidate's qualifications for that specific category. Also include (where applicable) current or former service on Federal advisory boards and any Federal employment. Each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the ISPAB, and that they will actively participate in good faith in the tasks of the ISPAB.

3. Besides participation at meetings, it is desired that members be able to devote a minimum of two days between meetings to developing draft issue papers, researching topics of potential interest, and so forth in furtherance of their ISPAB duties.

4. Selection of ISPAB members will not be limited to individuals who are nominated. Nominations that are received and meet the requirements will be kept on file to be reviewed as ISPAB vacancies occur.

5. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse ISPAB membership.

Manufacturing Extension Partnership (MEP) Advisory Board

Address: Please submit nominations to Ms. Cheryl Gendron, NIST, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, MD 20899–4800. Nominations may also be submitted via fax to 301–963–6556, or via email at *Cheryl.Gendron@nist.gov.* Additional information regarding MEP, including its charter may be found on its electronic home page at *http://www.nist.gov/mep/advisory-board.cfm.*

Contact Information: Ms. Cheryl Gendron, Designated Federal Officer, NIST, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, MD 20899–4800; telephone 301–975–4919, fax 301–963–6556; or via email at *Cheryl.Gendron@nist.gov.*

Committee Information

The MEP Advisory Board (Board) is authorized under section 501 of the American Innovation and Competitiveness Act (Pub. L. 114–329); codified at 15 U.S.C. 278k(m), as amended, in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Board will provide advice on MEP activities, plans, and policies.

2. The Board will assess the soundness of MEP plans and strategies.

3. The Board will assess current performance against MEP program plans.

4. The Board will function solely in an advisory capacity, and in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

5. The Board shall transmit through the Director of NIST an annual report to the Secretary of Commerce for transmittal to Congress not later than 30 days after the submission to Congress of the President's annual budget request each year. The report shall address the status of the MEP program.

Membership

1. The Board shall consist of not fewer than 10 members, appointed by the Director of NIST and broadly representative of stakeholders. At least 2 members shall be employed by or on an advisory board for an MEP Center, at least 5 members shall be from U.S. small businesses in the manufacturing sector, and at least 1 member shall represent a community college. No member shall be an employee of the Federal Government.

2. The Director of NIST shall appoint the members of the Board. Members shall be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance. Board members serve at the discretion of the Director of NIST.

3. The term of office of each member of the Board shall be three years, except that vacancy appointments shall be for the remainder of the unexpired term of the vacancy. Any person who has completed two consecutive full terms of service on the Board shall thereafter be ineligible for appointment during the one-year period following the expiration of the second term.

Miscellaneous

1. Members of the Board will not be compensated for their services but will, upon request, be allowed travel and per diem expenses as authorized by 5 U.S.C. 5701 *et seq.,* while attending meetings of the Board or subcommittees thereof, or while otherwise performing duties at the request of the Chair, while away from their homes or regular places of business.

2. The Board will meet at least biannually. Additional meetings may be called by the Director of NIST or the Designated Federal Officer (DFO) or his or her designee.

3. Committee meetings are open to the public.

Nomination Information

1. Nominations are being accepted in all categories described above.

2. Nominees should have specific experience related to manufacturing and industrial extension services. Letters of nomination should include the category of membership for which the candidate is applying and a summary of the candidate's qualifications for that specific category. Each nomination letter should state that the person agrees to the nomination and acknowledges the responsibilities of serving on the MEP Advisory Board.

3. Selection of MEP Advisory Board members will not be limited to individuals who are nominated. Nominations that are received and meet

the requirements will be kept on file to be reviewed as Board vacancies occur.

4. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse MEP Advisory Board membership.

National Construction Safety Team (NCST) Advisory Committee

Address: Please submit nominations to Benjamin Davis, Designated Federal Officer, NIST, 100 Bureau Drive, Mail Stop 8615, Gaithersburg, MD 20899–8604. Additional information regarding the NCST, including its charter may be found on its electronic home page at *https://www.nist.gov/el/disaster-resilience/disaster-and-failure-studies/national-construction-safety-team-ncst/advisory.*

Contact Information: Maria Dillard, Acting Director, Disaster and Failure Studies Program, NIST, 100 Bureau Drive, Mail Stop 8615, Gaithersburg, MD 20899–8604, telephone 301–975–4953; or via email at *maria.dillard@nist.gov.*

Committee Information

The NCST Advisory Committee (Committee) was established in accordance with the National Construction Safety Team Act, Public Law 107–231 and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee shall advise the Director of NIST on carrying out the National Construction Safety Team Act (Act), review the procedures developed under section 2(c)(1) of the Act, and review the reports issued under section 8 of the Act.

2. The Committee functions solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

3. The Committee shall report to the Director of NIST.

4. On January 1 of each year, the Committee shall transmit to the Committee on Science, Space, and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report that includes: (1) An evaluation of National Construction Safety Team (Team) activities, along with recommendations to improve the operation and effectiveness of Teams, and (2) an assessment of the implementation of the recommendations of Teams and of the Committee.

Membership

1. The Committee shall consist of no less than 4 and no more than 12 members. Members shall reflect the wide diversity of technical disciplines and competencies involved in the National Construction Safety Teams investigations. Members shall be selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting the National Construction Safety Teams.

2. The Director of NIST shall appoint the members of the Committee, and they will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

Miscellaneous

1. Members of the Committee shall not be compensated for their services but may, upon request, be allowed travel and per diem expenses in accordance with 5 U.S.C. 5703.

2. Members of the Committee shall serve as Special Government Employees (SGEs), will be subject to the ethics standards applicable to SGEs, and are required to file an annual Executive Branch Confidential Financial Disclosure Report.

3. The Committee shall meet at least once per year. Additional meetings may be called whenever requested by the NIST Director or the Designated Federal Officer (DFO); such meetings may be in the form of telephone conference calls and/or videoconferences.

Nomination Information

1. Nominations are sought from industry and other communities having an interest in the National Construction Safety Teams investigations.

2. Nominees should have established records of distinguished service. The field of expertise that the candidate represents should be specified in the nomination letter. Nominations for a particular field should come from organizations or individuals within that field. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the nominee agrees to the nomination, acknowledges the responsibilities of serving on the Committee, and will actively participate in good faith in the tasks of the Committee.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Committee membership.

Advisory Committee on Earthquake Hazards Reduction (ACEHR)

Address: Please submit nominations to Tina Faecke, Management and Program Analyst, National Earthquake Hazards Reduction Program, NIST, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, MD 20899–8604. Nominations may also be submitted via fax to 301–975–4032 or email at *tina.faecke@nist.gov.* Additional information regarding the ACEHR, including its charter and executive summary may be found on its electronic home page at *http://www.nehrp.gov.*

Contact Information: Steven McCabe, Director, National Earthquake Hazards Reduction Program, NIST, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, MD 20899–8604, telephone 301–975–8549, fax 301–975–4032; or via email at *steven.mccabe@nist.gov.*

Committee Information

The Advisory Committee on Earthquake Hazards Reduction (Committee) was established in accordance with the National Earthquake Hazards Reduction Program Reauthorization Act of 2004, Public Law 108–360 (42 U.S.C. 7704(a)(5)) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee will act in the public interest to assess trends and developments in the science and engineering of earthquake hazards reduction; effectiveness of the National Earthquake Hazards Reduction Program (Program) in carrying out the activities under section (a)(2) of the Earthquake Hazards Reduction Act of 1977, as amended, (42 U.S.C. 7704(a)(2)); the need to revise the Program; and the management, coordination, implementation, and activities of the Program.

2. The Committee will function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

3. The Committee shall report to the Director of NIST.

4. The Committee shall report to the Director of NIST at least once every two years on its findings of the assessments and its recommendations for ways to improve the Program. In developing recommendations, the Committee shall consider the recommendations of the United States Geological Survey (USGS) Scientific Earthquake Studies Advisory Committee (SESAC).

Membership

1. The Committee shall consist of not fewer than 11, nor more than 17

members. Members shall reflect the wide diversity of technical disciplines, competencies, and communities involved in earthquake hazards reduction. Members shall be selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting the National Earthquake Hazards Reduction Program.

2. The Director of NIST shall appoint the members of the Committee. Members shall be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

3. The term of office of each member of the Committee shall be three years, except that vacancy appointments shall be for the remainder of the unexpired term of the vacancy and that members shall have staggered terms such that the Committee will have approximately one-third new or reappointed members each year.

Miscellaneous

1. Members of the Committee shall not be compensated for their services, but may, upon request, be allowed travel and per diem expenses in accordance with 5 U.S.C. 5701 *et seq.,* while attending meetings of the Committee or subcommittees thereof, or while otherwise performing duties at the request of the Chairperson, while away from their homes or regular places of business.

2. Members of the Committee shall serve as Special Government Employees (SGEs) and will be subject to the ethics standards applicable to SGEs and are required to file an annual Executive Branch Confidential Financial Disclosure Report.

3. The Committee members shall meet face-to-face at least once per year. Additional meetings may be called whenever requested by the NIST Director; such meetings may be in the form of telephone conference calls and/or videoconferences.

4. Committee meetings are open to the public.

Nomination Information

1. Members will be drawn from industry and other communities having an interest in the Program, such as, but not limited to, research and academic institutions, industry standards development organizations, state and local government, and financial communities, who are qualified to provide advice on earthquake hazards reduction and represent all related scientific, architectural, and engineering disciplines.

2. Any person who has completed two consecutive full terms of service on the Committee shall be ineligible for appointment for a third term during the two-year period following the expiration of the second term.

3. Nominees should have established records of distinguished service. The field of expertise that the candidate represents should be specified in the nomination letter. Nominations for a particular field should come from organizations or individuals within that field. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the nominee agrees to the nomination, acknowledges the responsibilities of serving on the Committee, and will actively participate in good faith in the tasks of the Committee.

4. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad based and diverse Committee membership.

Visiting Committee on Advanced Technology (VCAT)

Address: Please submit nominations to Stephanie Shaw, Designated Federal Officer, VCAT, NIST, 100 Bureau Drive, Mail Stop 1060, Gaithersburg, MD 20899–1060. Nominations may also be submitted via fax to 301–216–0529 or via email at *stephanie.shaw@nist.gov.* Additional information regarding the VCAT, including its charter, current membership list, and past reports may be found on its electronic homepage at *http://www.nist.gov/director/vcat/.*

Contact Information: Stephanie Shaw, Designated Federal Officer, VCAT, NIST, 100 Bureau Drive, Mail Stop 1060, Gaithersburg, MD 20899–1060, telephone 301–975–2667, fax 301–216–0529; or via email at *stephanie.shaw@nist.gov.*

Committee Information

The VCAT (Committee) was established in accordance with 15 U.S.C. 278 and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee shall review and make recommendations regarding general policy for NIST, its organization, its budget, and its programs, within the framework of applicable national policies as set forth by the President and the Congress. 15 U.S.C. 278(a).

2. The Committee shall provide an annual report, through the Director of NIST, to the Secretary of Commerce for submission to the Congress not later than 30 days after the submittal to Congress of the President's annual budget request in each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect NIST, or with which the Committee in its official role as the private sector policy adviser of NIST is concerned. Each such report shall identify areas of research and research techniques of the Institute of potential importance to the long-term competitiveness of United States industry, in which the Institute possesses special competence, which could be used to assist United States enterprises and Untied States industrial joint research and development ventures. 15 U.S.C. 278(h)(1). The Committee shall submit, through the Director of NIST, to the Secretary and the Congress such additional reports on specific policy matters as it deems appropriate. 15 U.S.C. 278(h)(2).

3. The Committee will function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

4. The Committee shall report to the Director of NIST.

Membership

1. The Director of NIST shall appoint the members of the Committee. Members shall be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance. 15 U.S.C. 278(a). Members shall be selected solely on the basis of established records of distinguished service; shall provide representation of a cross-section of traditional and emerging United States industries; and shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. No employee of the Federal Government shall serve as a member of the Committee. 15 U.S.C. 278(b).

2. Members of the Committee shall serve as Special Government Employees (SGEs) and will be subject to the ethics standards applicable to SGEs.

3. The Committee shall consist of not fewer than nine members appointed by the Director of NIST, a majority of whom shall be from United States industry. 15 U.S.C. 278(a). The term of office of each member of the Committee shall be three years, except that vacancy appointments shall be for the remainder of the unexpired term of the vacancy. 15 U.S.C. 278(c)(1). Members shall serve at the discretion of the Director of NIST.

4. Any person who has completed two consecutive full terms of service on the Committee shall be ineligible for appointment for a third term during the one-year period following the expiration o the second term. 15 U.S.C. 278(c)(1).

5. Pursuant to 15 U.S.C. 278(f), the Committee chairperson and vice chairperson shall be elected by the members of the Committee at each annual meeting occurring in an even-numbered year. The vice chairperson shall perform the duties of the chairperson in his or her absence. In case a vacancy occurs in the position of the chairperson or vice chairperson, the Committee shall elect a member to fill such vacancy.

6. Members of the Committee will not be compensated for their services, but will, upon request, be allowed travel expenses in accordance with 5 U.S.C. 5701 *et seq.,* while attending meetings of the Committee or of its subcommittees, or while otherwise performing duties at the request of the chairperson, while away from their homes or a regular place of business.

7. Pursuant to 15 U.S.C. 278(g), the Committee may, with the concurrence o a majority of its members, permit the appointment of a staff consisting of not more than four professional staff members and such clerical staff members as may be necessary. Such staff members shall be appointed by the Director after consultation with the chairperson of the Committee and assigned at the direction of the Committee.

8. Subcommittees: Pursuant to 15 U.S.C. 278(e), the Committee shall have an executive committee, and may delegate to it such powers and functions of the Committee as it deems appropriate. The Committee and/or the Director of NIST may establish such other subcommittees, task forces, and working groups consisting of members from the parent Committee as may be necessary, subject to the provisions of FACA, the FACA implementing regulations, and applicable Department of Commerce guidance. Subcommittees must report back to the Committee and any recommendations based on their work will be deliberated and agreed upon by the Committee prior to dissemination to NIST.

Miscellaneous

1. Meetings of the VCAT usually take place at the NIST headquarters in Gaithersburg, Maryland. The Committee will meet at least twice each year at the call of the chairperson or whenever one-third of the members so request in writing. The Committee shall not act in the absence of a quorum, which shall consist of a majority of the members of the Committee not having a conflict of interest in the matter being considered by the Committee. 15 U.S.C. 278(d).

2. Generally, Committee meetings are open to the public.

Nomination Information

1. Nominations are sought from all fields described above.

2. Nominees should have established records of distinguished service and shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment and international relations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on Federal advisory boards and Federal employment. In addition, each nomination letter should state that the candidate agrees to the nomination, acknowledges the responsibilities of serving on the VCAT, and will actively participate in good faith in the tasks of the VCAT.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse VCAT membership.

Kevin Kimball,

NIST Chief of Staff.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA055]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Old Sitka Dock North Dolphins Expansion Project in Sitka, Alaska

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to Halibut Point Marine Services, LLC (HPMS) to incidentally harass, by Level A and Level B harassment only, marine mammals during construction activities associated with the Old Sitka Dock North Dolphins Expansion Project in Sitka, Alaska.

DATES: This Authorization is effective from October 1, 2020 through February 28, 2021.

FOR FURTHER INFORMATION CONTACT: Leah Davis, Office of Protected Resources, NMFS, (301) 427–8401. 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 above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On July 30, 2019, NMFS received a request from HPMS for an IHA to take marine mammals incidental to dock expansion activities. The application was deemed adequate and complete on October 21, 2019. HPMS's request is for take of a small number of seven species of marine mammals by Level B harassment and Level A harassment. Neither HPMS nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of the Specified Activity

HPMS is proposing to add two additional dolphin structures and modify two existing dolphin structures at their deep-water dock facility in Sitka Sound. The cruise industry is a major sector of Sitka's economy, and the current HPMS facility currently does not meet the industry-required specifications for mooring newer, larger cruise vessels that are becoming increasingly more common. Construction at the dock facility will include vibratory pile installation and removal of temporary, template pile structures, vibratory and impact installation of permanent piles comprising the dolphins, and down-the-hole drilling to install bedrock anchors for the permanent piles. Vibratory pile removal and installation, impact pile installation, and drilling activity will introduce underwater sounds that may result in take, by Level A and Level B harassment, of marine mammals across approximately 55.9km^2 in Sitka sound.

A detailed description of the planned project is provided in the **Federal Register** notice for the proposed IHA (85 FR 3623; January 22, 2020). Since that time, no changes have been made to the planned construction activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS's proposal to issue an IHA to HPMS was published in the **Federal Register** on January 22, 2020 (85 FR 3623). That notice described, in detail, HPMS's planned activity, the marine mammal species that may be affected by the activity, the anticipated effects on marine mammals and their habitat, planned amount and manner of take, and planned mitigation, monitoring and reporting measures. During the 30-day public comment period, NMFS received a comment letter from the Marine Mammal Commission (Commission); the Commission's recommendations and our responses are provided here, and the comments have been posted online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* Please see the Commission's letter for full detail regarding justification for their recommendations.

Comment 1: The Commission recommends that NMFS finish its review and finalize its recommended proxy source levels for both impact and vibratory installation of the various pile types and sizes.

Response: NMFS concurs with the Commission's recommendation, and intends to finalize the referenced information as soon as possible.

Comment 2: The Commission recommends that NMFS (1) re-estimate the Level A harassment zones for DTH drilling based on source levels provided either by Reyff and Heyvaert (2019) or Denes et al. (2019) and NMFS' Level A harassment thresholds for impulsive sources and (2) increase the numbers of Level A harassment takes accordingly. If NMFS believes that sufficient data are not available to characterize DTH drilling appropriately at this time, then the Commission recommends that NMFS require all applicants that propose to use a DTH hammer to install piles, including HPMS, to conduct in-situ measurements and adjust the Level A and Level B harassment zones accordingly.

Response: In this instance, NMFS tentatively agrees that the limited data available support considering the applicant's use of DTH drilling to be an impulsive sound source for the purposes of calculating the Level A harassment zones. However, at this time, we do not agree with the specific recommendations concerning source levels, and have used the initial source level selected (166.2dB RMS SPL at 10m, (Denes *et al.,* 2016)) to calculate the Level A harassment zones against NMFS' Level A harassment thresholds for impulsive sources. NMFS updated Level A harassment takes accordingly. Please see the Estimated Take section for the Level A harassment zones and take calculations. NMFS is evaluating the available DTH drilling Sound Source Verification (SSV) data and will fill information gaps as possible, but is not requiring HPMS to conduct in-situ measurements.

Comment 3: The Commission recommends that NMFS increase the number of Level A harassment takes from five to at least 10 for harbor seals and from five to at least 15 for harbor porpoises, notwithstanding the previous recommendation to revise the Level A harassment takes accordingly for DTH drilling. The Commission also recommends that NMFS increase Level B harassment takes from 532 to 627 for harbor seals, from 95 to 275 for harbor porpoises, and from 304 to no fewer than 627 for Steller sea lions.

Response: NMFS thanks the Commission for its recommendation, but does not concur. A complete rationale for the authorized take numbers is included in the Estimated Take section, below.

Comment 4: The Commission recommends that NMFS ensure HPMS keeps a running tally of the total takes, based on observed and extrapolated takes, for both Level A and B harassment.

Response: We agree that HPMS must ensure they do not exceed authorized takes but do not concur with the recommendation. NMFS is not responsible for ensuring that HPMS does not operate in violation of an issued IHA.

Comment 5: The Commission recommends that NMFS include certain requirements that the Commission deems ''standard.'' Specifically, the Commission recommends that we include requirements that (1) HPMS conduct pile driving and removal activities during daylight hours only and (2) if the entire shutdown zone(s) is not visible due to darkness, fog, or heavy rain, HPMS delay or cease pile driving and removal activities until the zone(s) is visible.

Response: We do not fully concur with the Commission's recommendations, or with their underlying justification, and do not adopt them as stated. While HPMS has no intention of conducting pile driving activities at night, it is unnecessary to preclude such activity should the need arise (*e.g.,* on an emergency basis or to complete driving of a pile begun during daylight hours, should the construction operator deem it necessary to do so). Further, while acknowledging that prescribed mitigation measures for any specific action (and an associated determination that the prescribed measures are sufficient to achieve the least practicable adverse impact on the affected species or stocks and their habitat) are subject to review by the Commission and the public, any determination of what measures constitute ''standard'' mitigation requirements is NMFS' alone to make. Even in the context of measures that NMFS considers to be ''standard'' we reserve the flexibility to deviate from

such measures, depending on the circumstances of the action. We disagree with the statement that a prohibition on pile driving activity outside of daylight hours is necessary to meet the MMPA's least practicable adverse impact standard, and the Commission does not justify this assertion.

As included in the draft authorization, the final authorization includes a measure stating that ''Should environmental conditions deteriorate such that marine mammals within the entire shutdown zone would not be visible (*e.g.,* fog, heavy rain), pile driving and removal must be delayed until the PSO is confident marine mammals within the shutdown zone could be detected,'' though this need not preclude pile driving at night with sufficient illumination.

Comment 6: The Commission recommends that NMFS continue to include in all draft and final incidental harassment authorizations, the explicit requirements to cease activities until NMFS reviews the circumstances involving any injury or death that has been attributed to the activity and determines what additional measures are necessary to minimize additional injuries or deaths.

Response: NMFS concurs with the Commission's recommendation as it relates to this IHA and has added the referenced language to the *Monitoring and Reporting* section of this notice and the Reporting section of the issued IHA. We will continue to evaluate inclusion of this language in future IHAs.

Comment 7: The Commission reiterates programmatic recommendations regarding NMFS' potential use of the renewal mechanism for one-year IHAs.

Response: NMFS does not agree with the Commission and, therefore, does not adopt the Commission's recommendation. NMFS will provide a detailed explanation of its decision within 120 days, as required by section 202(d) of the MMPA.

Changes From the Proposed IHA to Final IHA

The effective period for the final IHA is October 1, 2020 to February 28, 2021, rather than one year as described in the proposed IHA.

Additionally, NMFS made several adjustments to the source levels included in the proposed IHA. The Commission informally noted that the reference distance for the impact pile driving source levels (Austin *et al.,* 2016) should have been 11m, rather than the 10m used for calculations in the proposed IHA. NMFS agrees and has updated the Level A and Level B harassment zones to reflect the 11m reference distance. As informally noted by the Commission also, the peak source level for impact pile driving has been updated to 212.5dB, rather than 212dB. Also as recommended by the Commission, NMFS has reevaluated the impacts of DTH drilling, considering it to be an impulsive source for the purposes of calculating Level A harassment zones, rather than continuous as considered in the notice of proposed IHA. NMFS recalculated the Level A harassment zones using 166.2dB RMS SPL at 10m (Denes *et al.,* 2016) and, accordingly, increased the authorized numbers of take by Level A harassment from five to seven for both harbor seal and harbor porpoise. Please see the *Estimated Take* section for the revised Level A harassment zones and final Level A harassment take authorizations.

NMFS also made several changes to the take estimate included in the proposed IHA. As described further in the *Estimated Take* section, NMFS estimates that 2.2 percent of Steller sea lions in the project area are from the Western DPS, rather than the 3.1 percent estimated in the proposed authorization. Additionally, several take estimates were updated based on informal recommendations by the Commission. The harbor seal take estimate has been increased to 532 takes to reflect the latest Alaska Fisheries Science Center counts (August 2011) for the CE49 haul out sites, the minke whale take estimate has been increased from three to four individuals, and the killer whale take estimate has been increased from 24 to 32 animals.

NMFS made several changes to the mitigation measures included in the proposed IHA (see *Mitigation*). The final IHA reflects an updated shutdown zone for low-frequency and high-frequency cetaceans during down-the-hole drilling (due to changes to the Level A harassment zones previously described) and during impact pile driving (due to changes to the Level A harassment zones resulting from the source level adjustments described above). The final IHA does not include the note that NMFS may adjust the shutdown zones pending review and approval of an acoustic monitoring report, as the applicant is not proposing to conduct hydroacoustic monitoring. Additionally, the final IHA reflects that during soft starts, the applicant will implement a one-minute waiting period, as described in the **Federal Register** notice for the proposed IHA, rather than a thirty-second waiting period as described in the proposed IHA itself. Finally, measure 4(e) of the final IHA states that after a shutdown has been implemented, pile driving may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 15 minutes have passed without subsequent detections, rather than 15 minutes for small cetaceans and pinnipeds and 30 minutes for large cetaceans, as described in the proposed IHA.

Based on the Commission's recommendation, NMFS has also updated the reporting requirements for dead or injured marine mammals to require HPMS to cease the specified activities until NMFS notifies HPMS that they may resume.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments)* and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species*).

Table 1 lists all species with expected potential for occurrence in Sitka, AK and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2019). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For

some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. 2018 SARs and draft 2019 SARs (*e.g.,* Muto *et al.* 2019). All values presented in Table 1 are the most recent available at the time of publication and are available in the 2018 and draft 2019 SARs (Muto *et al.,* 2019 and Carretta *et al.,* 2019).

TABLE 1—MARINE MAMMALS THAT COULD OCCUR IN THE PROJECT AREA

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae:						
Gray whale	*Eschrichtius robustus*	Eastern North Pacific	-, -, N	26,960 (0.05, 25,849, 2016)	801	139
Family Balaenidae:						
North Pacific Right Whale	*Eubalaena japonica*	Eastern North Pacific	E, D, Y	31 (0.226, 26, 2015)	0.05	0
Family Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeangliae*	Central North Pacific	-, -, Y	10,103 (0.300, 7,891, 2006)	83	26
Fin whale	*Balaenoptera physalus*	Northeast Pacific	E, D, Y	see SAR (see SAR, see SAR, 2013).	5.1	0.4
Minke whale	*Balaenoptera acutorostra*	Alaska	-, -, N	N/A (N/A, N/A, see SAR)	UND	0
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Physeteridae:						
Sperm whale	*Physeter microcephalus*	North Pacific	E, D, Y	see SAR (see SAR, N/A, 2015).	see SAR	4.7
Family Delphinidae:						
Killer whale	*Orcinus orca*	Eastern North Pacific Alaska Resident.	-, -, N	2,347 (N/A, 2,347, 2012)	24	1
		Gulf of Alaska, Aleutian Islands, Bearing Sea Transient.	-, -, N	587 (N/A, 587, 2012)	5.87	1
		Eastern North Pacific Northern Resident.	-, -, N	302 c (N/A, 302, 2018)	2.2	0.2
		West Coast Transient	-, -, N	243 (N/A, 243, 2009)	2.4	0
Pacific white-sided dolphin	*Lagenorhynchus obliquidens*	North Pacific	-, -, N	26,880 (UNK, UNK, 1990)	UND	0
Family Phocoenidae (porpoises):						
Dall's porpoise	*Phocoenoides dalli*	Alaska	-, -, N	83,400 (0.097, NA, 1991)	UND	38
Harbor porpoise	*Phocoena phocoena*	Southeast Alaska	-, -, Y	see SAR (see SAR, see SAR, 2012).	8.9	34
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
California sea lion	*Zalophus californianus*	U.S.	-, -, N	257,606 (N/A, 233,515, 2014)	14,011	≥321
Northern fur seal	*Callorhinus ursinus*	Eastern Pacific	-, D, Y	620,660 (0.2, 525,333, 2016)	11,295	399
Steller sea lion	*Eumetopias jubatus*	Eastern	-,-, N	43,201 a (see SAR, 43,201, 2017).	2592	113
Steller sea lion	*Eumetopias jubatus*	Western	E, D, Y	53,624 a (see SAR, 53,624, 2018).	322	247
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina*	Sitka/Chatham Straight	-, -, N	13,289 (see SAR, 11,883, 2015).	356	77

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: www.nmfs.noaa.gov/pr/sars/. CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable [explain if this is the case]

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[4] These values are the best estimate of pup and non-pup counts which have not been corrected to account for animals at sea during abundance surveys.

Note—*Italicized species are not expected to be taken or proposed for authorization.*

All species that could potentially occur in the project area are included in Table 1. However, the temporal and/or spatial occurrence of western north Pacific gray whales, northern right whale, fin whale, sperm whale, pacific white-sided dolphin, Dall's porpoise, California sea lion, and Northern fur seal is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here.

Marine mammal monitoring reports are available for three recent construction projects in the Sitka area (Gary Paxton Industrial Park Dock Modification Project, 82 FR 47717, October 13, 2017; Biorka Island Dock Replacement Project, 82 FR 50397, October 31, 2017; O'Connell Bridge Lightering Float Pile Replacement Project, 84 FR 27288, June 12, 2019). These reports were referenced in determining marine mammals likely to be present within the Old Sitka Dock project area. NMFS acknowledges seasonal differences between the Old

Sitka Dock project and available monitoring reports.

North Pacific Right Whale, fin whale, sperm whale, Dall's porpoise, and northern fur seal have not been reported in monitoring reports available for the recent Sitka-area, and were not observed during the Straley *et al.* (2017) surveys. Straley *et al.* (2017) only observed seven Pacific white-sided dolphins during eight years of surveys, however, no observations were reported in monitoring reports available for the recent Sitka-area. California sea lions are rarely sighted in southern Alaska. NMFS' anecdotal sighting database includes four sightings in Seward and Kachemak Bay, and they were also documented during the Apache 2012 seismic survey in Cook Inlet. However, California sea lions have not been reported in monitoring reports available for the recent Sitka-area construction projects.

In addition, the northern sea otter may be found in Sitka. However, northern sea otters are managed by the U.S. Fish and Wildlife Service and are not considered further in this document.

A detailed description of the of the species likely to be affected by the project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (85 FR 3623, January 22, 2020); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

Underwater noise from impact and vibratory pile driving and down-the-hole drilling activities associated with the Old Sitka Dock North Dolphins Expansion Project have the potential to result in harassment of marine mammals in the vicinity of the action area. The **Federal Register** notice for the proposed IHA (85 FR 3623, January 22, 2020) included a discussion of the potential effects of such disturbances on marine mammals and their habitat, therefore that information is not repeated in detail here; please refer to that **Federal Register** notice (85 FR 3623, January 22, 2020) for that information.

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes are primarily by Level B harassment, as use of the acoustic sources (*i.e.* pile driving and removal, down-the-hole drilling) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for high frequency species and phocids because predicted auditory injury zones are larger than for mid-frequency species and otariids. Auditory injury is unlikely to occur for other species/groups. The mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 microPascal (μPa) root mean square (rms) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

For the purpose of Level B harassment zone calculation, HPMS's activity includes the use of continuous (vibratory pile driving and removal, down-the-hole drilling) and impulsive (impact pile driving) sources, and therefore the 120 and 160 dB re 1 μPa (rms) are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). HPMS's activity includes the use of impulsive (impact pile driving, down-the-hole drilling) and non-impulsive (vibratory pile driving and removal) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

TABLE 2—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS Onset Acoustic Thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,\ LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa^{2}s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the project. Marine mammals are expected to be affected via sound generated by the primary components of the project (*i.e.,* impact pile driving, vibratory pile driving and removal, down-the-hole drilling). The maximum (underwater) area ensonified above the thresholds for behavioral harassment referenced above is 55.9km^2 (21.6mi^2), and the calculated distance to the farthest behavioral harassment isopleth is approximately15.8km (9.8mi). Both are governed by landmasses in the Sound.

The project includes vibratory and impact pile installation of steel pipe piles, vibratory removal of steel pipe piles, and down-the-hole drilling. Source levels of pile installation and removal activities are based on reviews of measurements of the same or similar types and dimensions of piles available in the literature. Source levels for each pile size and activity are presented in Table 3. Source levels for vibratory installation and removal of piles of the same diameter are assumed to be the same.

TABLE 3—SOUND SOURCE LEVELS FOR PILE DRIVING METHODS AND DOWN-THE-HOLE DRILLING

Pile size and method	Source level [a]			Literature source
	dB RMS	dB SEL [c]	dB peak	
30-inch steel vibratory installation/removal	[b] 168.0			Denes *et al.,* 2016.
48-inch steel vibratory installation	[b] 168.0			Denes *et al.,* 2016.
33-inch drilled anchor shaft (down-the-hole drilling) [e]	166.2			Denes *et al.,* 2016.
48-inch steel impact installation *(and 30-inch steel impact installation, as necessary)* [d].	197.9	186.7	212.5	Austin *et al.,* 2016.

[a] All source levels are referenced to 10m, except for impact pile driving which is referenced to 11m.

[b] Source levels used for the impact analyses of vibratory installation/removal of 30-inch and 48-inch piles are the same. The most reasonable proxy source level for the 30-inch pile (including comparison of water depth and substrate) was 168.0 dB RMS, the median vibratory summary value from the Auke Bay site in Denes *et al.* (2016). For the 48-inch piles, NMFS determined that the median value from pile IP5 in Table 11 of Austin *et al.* (2016), 166.8 dB RMS, was the most appropriate proxy source level; however, this source level was lower than the proxy source level for the 30-inch pile. Typically, pile driving source levels are louder for installation/removal of larger piles. In effort to conduct a conservative analysis of the effects, NMFS adopted 168.0 dB RMS as a proxy source level for vibratory installation of the 48-inch piles as well.

[c] Sound exposure level (dB re 1 μPa^2-sec).

[d] As previously noted, the applicant does not expect impact pile driving of the 30-inch piles to be necessary. However, if it is, the applicant will conservatively use source levels and Level A and Level B harassment zone calculations, and monitoring zones for impact pile driving of 48-inch steel piles.

[e] As noted in the Changes from Proposed to Final section, the analysis of the applicant's DTH drilling activity considers sound produced as both a continuous and an impulsive noise source. NMFS has tentatively determined that Denes *et al.,* 2016 provides the most appropriate source level for this analysis. However, this method is not intended to set precedent for future evaluation of DTH drilling as NMFS continues to analyze available data, and more data becomes available.

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * Log_{10} (R_1/R_2),$$

where

TL = transmission loss in dB
B = transmission loss coefficient
R_1 = the distance of the modeled SPL from the driven pile, and
R_2 = the distance from the driven pile of the initial measurement

Absent site-specific acoustical monitoring with differing measured transmission loss, a practical spreading value of 15 is used as the transmission loss coefficient in the above formula. Site-specific transmission loss data for Old Sitka Dock are not available, therefore the default coefficient of 15 is used to determine the distances to the Level A and Level B harassment thresholds.

TABLE 4—PILE DRIVING SOURCE LEVELS AND DISTANCES TO LEVEL B HARASSMENT THRESHOLDS

Pile size and method	Source level [a] (dB re 1 μPa rms)	Level B threshold (dB re 1 μPa rms)	Propagation (xLogR)	Distance to level B threshold (m)
30-inch steel vibratory installation/removal	[b] 168.0	120	15	15,849
48-inch steel vibratory installation	[b] 168.0	120	15	15,849
33-inch drilled anchor shaft (down-the-hole drilling)	166.2	120	15	12,023
48-inch steel impact installation *(and 30-inch steel impact installation, as necessary)*	197.9	160	15	3,699

[a] All source levels are referenced to 10m, except for impact pile driving which is referenced to 11m.
[b] As noted in Table 3, source levels for the 30-inch and 48-inch steel pipe piles are the same.

When the NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources such as pile driving, NMFS User Spreadsheet predicts the distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would incur PTS. Inputs used in the User Spreadsheet, and the resulting isopleths are reported below.

TABLE 5—USER SPREADSHEET INPUT PARAMETERS USED FOR CALCULATING LEVEL A HARASSMENT ISOPLETHS

Pile size and installation method	48-inch pile vibratory installation	30-inch pile vibratory installation/ removal	33-inch drilled anchor shaft (down-the-hole drilling)	48-inch pile impact installation *(and 30-inch steel impact installation, as necessary)* (SEL_{cum})	48-inch pile impact installation (PK)
Spreadsheet Tab Used	A.1) Vibratory pile driving	A.1) Vibratory pile driving	E) Impulsive-Stationary	E.1) Impact pile driving	E.1) Impact pile driving
Weighting Factor Adjustment (kHz)	2.5	2.5	2	2	2
Source Level	168.0 dB rms SPL	168.0 dB rms SPL	166.2 dB rms SPL	186.7 dB SEL	212.5 dB peak
Number of piles within 24-h period	2	2	.....	2	.....
Duration to drive a single pile (minutes)	60	30	.....	.....	.....
Pulse Duration (seconds)	.....	.....	0.1	.....	.....
1/Repetition Rate	.....	.....	0.1	.....	.....
Number of strikes per pile	.....	.....	.....	135	.....
Activity Duration within 24-h period	7200 (seconds)	3600 (seconds)	2 (hours)[a]	.....	.....
Propagation (xLogR)	15	15	15	15	.....
Distance from source level measurement (meters)	10	10	10	11	11

[a] The applicant estimates that DTH drilling work will last approximately eight hours in one day, with seven hours of active drilling. NMFS does not expect that an animal would remain in the area for seven hours. Rather, NMFS expects that an animal is likely to be exposed to a maximum of two hours of drilling noise, and as such, calculated the Level A harassment zones based on an activity duration of two hours within a 24-hour period.

TABLE 6—CALCULATED DISTANCES TO LEVEL A HARASSMENT ISOPLETHS

Activity	Level A harassment zone (m)				
	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
30-inch Pile Vibratory Installation/Removal	20.0	1.8	29.6	12.2	0.9
48-inch Pile Vibratory Installation	31.8	2.8	46.9	19.3	1.4
33-inch drilled anchor shaft (down-the-hole drilling)	282.5	10.0	336.5	151.2	11.0
48-inch Pile Impact Installation *(and 30-inch steel impact installation, as necessary)* (SEL_{cum})	809.8	28.8	964.6	433.4	31.6
48-inch Pile Impact Installation *(and 30-inch steel impact installation, as necessary)* (PK)	4.1	.....	55.1	4.7	.....

Marine Mammal Occurrence and Take Calculation and Estimation

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. We describe how the information provided above is brought together to produce a quantitative take estimate.

Gray Whale

Straley *et al.,* 2017 documented a group of three gray whales during surveys between 2002 and 2015, however, no gray whales were observed during monitoring for other recent construction projects in the area (CBS, 2019; Turnagain Marine Construction, 2017; Turnagain Marine Construction, 2018). NMFS estimates that one group of three gray whales may occur within the Level B harassment zone during construction (3 animals × 1 group × 1 month = 3 Level B harassment takes) and therefore, authorized three Level B harassment takes of gray whales.

The largest Level A harassment zone for low-frequency cetaceans extends 809.8m from the source during impact pile driving of 48-inch piles (or impact pile driving of 30-inch steel piles, as necessary) (Table 6). HPMS is planning to implement activity-specific shutdown zones (Table 8), which, especially in combination with the already low likelihood of gray whales entering the area, NMFS expects to eliminate the potential for Level A harassment take of gray whale. Therefore, Level A harassment takes of gray whale are not authorized.

Minke Whale

Two minke whales were taken during the Biorka Island Dock Replacement project at the mouth of Sitka Sound (Turnagain Marine Construction, 2018). Based on monitoring data from Biorka Island, three Level B harassment takes of minke whale were authorized for the Sitka O'Connell Bridge project, however, no minke whale takes were reported. Both projects occurred in the month of June. Straley *et al.* (2017) did not report any observations of minke whales. However, because they were observed during the Biorka Island Dock Replacement project, NMFS estimated in the proposed authorization that one group of three minke whales may occur within the Level B harassment zone during the project, and therefore, planned to authorize three Level B harassment takes. However, based on informal correspondence with the Commission, NMFS is modifying the take authorization to include a Level B harassment take of one minke whale during each project week, as minke whales typically occur as individuals in Alaska (Dalheim *et al.,* 2009; Navy, 2018). NMFS and the applicant originally considered the project a three-week project; however, the Commission informally recommended considering it a four-week project, as the contractor will likely work a five-day week. NMFS agrees with the Commission, and authorized four Level B harassment takes of minke whales.

The largest Level A harassment zone for low-frequency cetaceans extends 809.8m from the source during impact pile driving of 48-inch piles (or impact pile driving of 30-inch steel piles, as necessary) (Table 6). HPMS will implement activity-specific shutdown zones (Table 8), which, especially in combination with the already low likelihood of minke whales entering the area, are expected to eliminate the potential for Level A harassment take of minke whale. Therefore, takes of minke whale by Level A harassment were not requested, and are not authorized.

Humpback Whale

Humpback whales frequent the action area and are likely to enter the Level B harassment zone during construction. Humpback whales typically occur in groups of two to four animals in the area (Straley *et al.,* 2017). Given the large Level B harassment zone, HPMS estimated, and NMFS concurred, that four groups of two humpback whales may occur within the Level B harassment zone on each of the 19 days of in-water construction (2 animals in a group × 4 groups each day × 19 days = 152 Level B harassment takes). Therefore, NMFS is authorizing 152 Level B harassment takes of humpback whales.

For ESA Section 7 consultation purposes, NMFS estimates that 93.9 percent of humpback whales in the project area are from the non-listed Hawaii DPS, and 6.1 percent of humpback whales in the project area are from the threatened Mexico DPS (Wade *et al.,* 2016). Therefore, per guidance from the Alaska Region, of the 152 Level B harassment takes requested, 142 takes are expected to be of humpback whales from the Hawaii DPS and 10 takes are expected to be of humpbacks from the Mexico DPS.

The largest Level A harassment zone for humpback whale extends 809.8m from the source during impact pile driving of 48-inch piles (Table 6). HPMS will implement activity-specific shutdown zones (Table 8), which, given the behavior and visibility of humpback whales, are expected to eliminate the potential for Level A harassment take of humpback whale. Therefore, takes of humpback whale by Level A harassment were not requested, and are not authorized.

Killer Whale

Forty-four (44) killer whales were observed during 190 hours of observation from Whale Point between September and May from 1994 to 2002 (Straley *et al.,* 2017). Three killer whales were documented in Sitka Channel on one day in January 2017 during the Petro Marine Dock construction (Windward 2017). Seven killer whales were observed in June, but no killer whales were seen in July, August, or September in 2018 at Biorka Island (Turnagain Marine Construction, 2018). No killer whales were observed in October or November 2017 on the western side of Eastern Channel or Silver Bay (Turnagain Marine Construction, 2017).

During work on GPIP Dock, groups of five and 10 individuals were seen a few times, but, typically, single whales were observed near the mouth of Silver Bay (Turnagain Marine Construction, 2017). Straley *et al.'s* (2017) survey data indicates a typical killer whale group size between 4 and 8 individuals in Sitka Sound. Therefore, taking all of this information into consideration, NMFS proposed to authorize 24 Level B harassment takes, expecting that one group of eight killer whales may enter the Level B harassment zone on each of three project weeks (8 animals in a group × 1 group per week × 3 weeks of activity = 24 Level B harassment takes). However, as noted above, the Commission informally recommended considering the project a four-week project. NMFS agrees and is instead authorizing 32 Level B harassment takes (8 animals in a group × 1 group per week × 4 weeks of activity). Killer whales from all four stocks listed in Table 1 have the potential to be taken by Level B harassment.

The largest Level A harassment zone for mid-frequency cetaceans extends 28.8m from the source during impact installation of the 48-inch piles (or impact pile driving of 30-inch steel piles, as necessary) (Table 6). HPMS will implement activity-specific shutdown zones (Table 8), which, given the small size of the zone and the visibility of killer whales, are expected to eliminate the potential for Level A harassment take of killer whale. Therefore, takes of killer whale by Level A harassment were not requested, and are not authorized.

Harbor Porpoise

Harbor porpoises commonly frequent nearshore waters, but are not common in the project vicinity. Monthly tallies from observations from Sitka's Whale Park show harbor porpoises occurring infrequently in or near the action area in March, April, and October between 1994 to 2002 (Straley *et al.,* 2017). However, no harbor porpoises have been observed more recently during monitoring. No harbor porpoises were seen during the Petro Marine Dock construction monitoring in January 2017 (Windward, 2017), during monitoring for the GPIP dock between October of November of 2017 (Turnagain Marine Construction, 2017), or during monitoring for the Sitka O'Connel Bridge project in 2019 (CBS, 2019). Halibut Point Marine Services staff indicated that they have not seen a harbor porpoise near the project site during the past 5 years (HPMS, 2019).

The mean group size of harbor porpoise in Southeast Alaska is estimated at two to three individuals (Dahlheim *et al.* 2009), however, Straley *et al.* (2017) found that typical group size in the project area is five animals. HPMS conservatively estimates, and NMFS concurs that one group of five harbor porpoises may enter the Level B harassment zone on each project day (5 animals in a group × 1 group per day × 19 project days = 95 Level B harassment takes). Therefore, NMFS has authorized a total of 95 Level B harassment takes of harbor porpoise.

Given the size of the Level A harassment zones for impact pile driving and DTH drilling and the relative expected frequency of harbor porpoises entering the zone, we are requiring a shutdown zone that is smaller than the area within which Level A harassment could occur in order to ensure that pile driving and DTH drilling are not interrupted to the degree that the activities are extended over additional days. Therefore, there is a small chance that Level A harassment could occur. NMFS authorized Level A harassment take of one harbor porpoise on each day that impact pile driving is expected occur (see *Description of Proposed Activity* in the **Federal Register** notice for the proposed IHA (85 FR 3623; January 22, 2020)). NMFS recognizes that HPMS may install the piles at a slightly slower rate resulting in more impact pile driving days; however, given the extremely short duration of impact pile driving on each pile, NMFS still does not expect that Level A harassment will exceed five takes during impact pile driving. NMFS also authorized Level A harassment take of one harbor porpoise on half of the days that the applicant expects to conduct DTH drilling, for a total of seven Level A harassment takes ((1 Level A harassment take × 5 impact pile driving days) + (1 Level A harassment take × 2 DTH drilling days) = 7 Level A harassment takes). No Level A harassment takes of harbor porpoise were recorded in the Sitka GPIP Dock project (Turnagain Marine Construction, 2017) despite Level A harassment takes included in the authorizations. However, the Old Sitka Dock project has a longer work period and larger Level A harassment zones than the Sitka GPIP Dock project.

Harbor seal

Harbor seals are common in the inside waters of southeastern Alaska, including in Sitka Sound and within the project action area. They were observed during most months of monitoring (September through May) from Whale Park between 1994 and 2002, except in December and May (Straley *et al.,* 2017). Harbor seals were seen on 10 out of the 21 days of monitoring for GPIP dock construction between October and November 2017, and two out of eight days of monitoring for the Petro Marine dock in January 2017 (Turnagain Marine Construction, 2017 and Windward 2017).

Straley *et al.'s* (2017) data indicate that a typical group size is between one and two harbor seals. Observations during the original construction of the Halibut Point Marine Services dock facility recorded zero harbor seals within the 200-meter shutdown zone during pile driving operations. Observers indicated only observing individual seals outside the 200-meter zone two to three times per week. (McGraw, pers. com., 2019).

Harbor seals haul out of the water periodically to rest, give birth, and nurse their pups. According to the Alaska Fisheries Science Center's (AFSC) list of harbor seal haul-out locations, the closest listed haulout (id CE49) is located in Sitka Sound approximately 6.4 km (3.5 nmi) southwest, of the project site (AFSC, 2019).

NMFS proposed to authorize 171 Level B harassment takes (3 animals in a group × 3 groups per day × 19 days = 171 Level B harassment takes), estimating that three groups of three harbor seals may enter the Level B harassment zone on each project day. However, as suggested by the Commission, NMFS contacted the AFSC regarding the haulout numbers at the CE49 haulouts, as these locations are in close proximity to the Level B harassment zone. AFSC advised that the current abundance estimate for the CE49 haulouts is 28 individuals from August 2011 (Erin Richmond, pers. comm., January 2020). As such, NMFS is instead authorizing 532 Level B harassment takes of harbor seals, estimating that each of the 28 seals at haulout CE49 is likely to enter the Level B harassment zone on each in-water work day (28 animals × 19 project days = 532 Level B harassment takes).

Given the size of the zone and the relative expected frequency of harbor seals entering the zone, we are proposing a to require a shutdown zone that is smaller than the area within which Level A harassment could occur to ensure that pile driving and DTH drilling are not interrupted to the degree that the activities are extended over additional days. Therefore, there is a small chance that Level A harassment could occur. NMFS authorized Level A harassment take of one harbor seal on each day that impact pile driving is expected occur (see *Description of Proposed Activity* in the **Federal**

Register notice for the proposed IHA (85 FR 3623; January 22, 2020)) NMFS recognizes that HPMS may install the piles at a slightly slower rate resulting in more impact pile driving days; however, given the extremely short duration of impact pile driving on each pile, NMFS still does not expect that Level A harassment will exceed five takes during impact pile driving. Additionally, NMFS authorized Level A harassment take of one harbor seal on half of the four days that DTH drilling is expected to occur, for a total of seven Level A harassment takes ((1 Level A harassment take × 5 impact pile driving days) + (1 Level A harassment take × 2 DTH drilling days) = 7 Level A harassment takes). No Level A harassment takes of harbor seal were recorded for either the Sitka O'Connell Bridge project (CBS, 2019), or the Sitka GPIP Dock project (Turnagain Marine Construction, 2017), however, the Old Sitka Dock project has a longer work period, and larger Level A harassment zones than the Sitka GPIP Dock project.

Steller Sea Lion

Steller sea lions are common in the project area. They were observed during every month of monitoring (September to May) between 1994 and 2002 (Straley *et al.,* 2017). Steller sea lions were also observed on 19 of 21 days in Silver Bay and Easter Channel during monitoring for GPIP dock construction between October and November 2017 (Turnagain Marine Construction, 2017). During eight days of monitoring for the Petro Marine dock in January 2017, Steller sea lions were seen on three days (Windward, 2017).

During Straley *et al.'*s (2017) surveys, sea lions typically occurred in groups of two to three; however, a group of more than 100 was sighted on at least one occasion. Steller sea lions in groups of one to eight individuals were observed around Sitka GPIP dock construction (Turnagain Marine Construction, 2017), while all Steller sea lions were observed individually in Sitka Channel during Petro Marine Dock construction monitoring (Windward, 2017). Observations during the original construction of the Halibut Point Marine Services dock facility recorded zero Steller sea lions within the 200-meter shutdown zone during pile driving operations. Observers indicated observing individual sea lions outside the 200-meter zone four to five times per week (McGraw, pers. comm., 2019).

During the summer months, sea lions are seen in the project area daily. Two to three individual sea lions feed on fish carcasses dumped adjacent to the project site from fishing charter operations in a nearby private marina. However, during the project timing of fall and winter, the charter fishing operations are not underway and the sea lions are not as active in the area (McGraw, pers. comm., 2019).

HPMS estimated, and NMFS concurred, that two groups of eight Steller sea lions (maximum group size observed during the Sitka GPIP dock construction (Turnagain Marine Construction, 2017)) may occur within the Level B harassment zone on each of the 19 days of in-water construction (8 animals in a group × 2 groups each day × 19 days = 304 Level B harassment takes). Therefore, NMFS authorized 304 Level B harassment takes of Steller sea lions.

The largest Level A harassment zone for otariids extends 28.7m from the source during impact pile driving of 48-inch piles (Table 6). HPMS is planning to implement activity-specific shutdown zones (Table 8), which, given the small size of the Level A harassment zones, are expected to eliminate the potential for Level A harassment take of Steller sea lion. Therefore, Level A harassment take of Steller sea lions was not requested, and is not authorized.

Recognizing that western distinct population (WDPS) and eastern distinct population (EDPS) Steller sea lions overlap in northern Southeast Alaska, NMFS has determined that for management purposes the proportion of WDPS Steller sea lions in that area will be calculated based on Table 5 from Hastings et al. (2020) using the row for all non-pups 1+ years old from the ''western stock region'' (*i.e.,* the second row from the bottom in Table 5). Hastings *et al.* (2020) used mark/recapture models, 18 years of resighting data from over 3,500 branded Steller sea lions, and mitochondrial DNA haplotypes from the WDPS and EDPS to estimate minimum proportions of Steller sea lions in regions within Southeast Alaska (east of 144° W. longitude). As such, NMFS expects that 2.2 percent of Steller sea lions in the project area will be from the ESA-listed Western DPS, with the remaining 97.8 percent expected to be from the Eastern DPS. Therefore, of the 304 Level B harassment takes requested, 7 takes are expected to be of Steller sea lions from the ESA-listed Western DPS (western stock) and 297 are expected to be of Steller sea lions from the Eastern DPS (eastern stock).

TABLE 7—ESTIMATED TAKE BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES AND STOCK

Common name	Stock	Level A harassment take	Level B harassment take	Total take	Stock abundance	Percent of stock
Gray Whale	Eastern North Pacific	0	3	3	26,960	0.01
Minke Whale	Alaska	0	4	4	NA	NA
Humpback Whale	Central North Pacific	0	152	[a] 152	10,103	1.5
	Eastern North Pacific Alaska Resident.				2,347	1.4
Killer Whale	Gulf of Alaska, Aleutian Islands, Bering Sea Transient.	0	32	32 [b]	587	5.5
	Eastern North Pacific Northern Resident.				302	10.6
	West Coast Transient				243	13.2
Harbor Porpoise	Southeast Alaska	7	95	102	975	10.5
Steller Sea Lion [c]	Eastern U.S.	0	297	297	43,201	0.7
	Western U.S.		7	7	53,624	0.01
Harbor Seal	Sitka/Chatham Strait	7	532	539	13,289	4.1

[a] Of the authorized 152 Level B harassment takes, 142 takes are expected to be of humpback whales from the Hawaii DPS and 10 takes are expected to be of humpbacks from the Mexico DPS.

[b] It is unknown what stock taken individuals may belong to. Therefore, for purposes of calculating the percent of each stock that may be taken, it is assumed that up to 24 takes could occur to individuals of any of the stocks that occur in the project area.

[c] Eastern U.S. and Western U.S. stocks correspond to the Eastern DPS and Western DPS, respectively.

Mitigation Measures

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In addition to the measures described later in this section, HPMS will employ the following standard mitigation measures:

- Conduct briefings between construction supervisors and crews and the marine mammal monitoring team prior to the start of all pile driving activity and when new personnel join the work, to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures;
- For in-water heavy machinery work other than pile driving (*e.g.,* standard barges, *etc.*), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include the following activities: (1) Movement of the barge to the pile location; or (2) positioning of the pile on the substrate via a crane (*i.e.,* stabbing the pile);
- HPMS will drive all piles with a vibratory hammer until achieving a desired depth or refusal prior to using an impact hammer;
- For those marine mammals for which Level B harassment take has not been requested, in-water pile installation/removal will shut down immediately if such species are observed within or on a path towards the Level B harassment zone; and
- If take reaches the authorized limit for an authorized species, pile installation will be shut down as these species approach the Level B harassment zone to avoid additional take.

The following mitigation measures apply to HPMS's in-water construction activities.

Additionally, HPMS is required to implement all mitigation measures described in the biological opinion (issued on April 2, 2020).

Establishment of Shutdown Zones- HPMS will establish shutdown zones for all pile driving/removal and drilling activities. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity will occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones will vary based on the activity type and marine mammal hearing group (see Table 8). The largest shutdown zones are generally for low frequency and high frequency cetaceans as shown in Table 8. For low-frequency cetaceans, the shutdown zones contain the entire Level A harassment zones to help prevent Level A harassment takes, as the project area overlaps with humpback and gray whale BIAs.

The placement of PSOs during all pile driving and removal and drilling activities (described in detail in the *Monitoring and Reporting* section) will ensure that the entire shutdown zone is visible during pile installation. Should environmental conditions deteriorate such that marine mammals within the entire shutdown zone will not be visible (*e.g.,* fog, heavy rain), pile driving and removal must be delayed until the PSO is confident marine mammals within the shutdown zone could be detected.

TABLE 8—SHUTDOWN ZONES DURING PILE INSTALLATION AND REMOVAL, AND DOWN-THE-HOLE DRILLING

Activity	Shutdown zone (m)				
	LF cetaceans	MF cetaceans	HF cetaceans	Phocids	Otariids
30-inch Vibratory Pile Driving/Removal	50	10	50	25	10
48-inch Vibratory Pile Driving	50	10	50	25	10
Down-the-hole Drilling	300	10	200	100	25
48-inch Impact Pile Driving (and 30-inch impact pile driving, as necessary)	825	50	100	100	50

Monitoring for Level A and Level B Harassment—HPMS will monitor the Level B harassment zones (areas where SPLs are equal to or exceed the 160 dB rms threshold for impact driving and the 120 dB rms threshold during vibratory driving and drilling) and Level A harassment zones. Monitoring zones provide utility for observing by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring zones enable observers to be aware of and communicate the presence of marine mammals in the project area outside the shutdown zone and thus prepare for a potential cease of activity should the animal enter the shutdown zone. Placement of PSOs on the shorelines around Sitka Channel allow PSOs to observe marine mammals within the Level A and Level B harassment zones. Due to the large Level B harassment zones (Table 4), PSOs will not be able to effectively observe the entire zone. Therefore, Level B harassment exposures will be recorded and extrapolated based upon the

number of observed takes and the percentage of the Level B harassment zone that was not visible.

Soft Start—Soft-start procedures are believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors will be required to provide an initial set of three strikes from the hammer at forty-percent energy, followed by a one-minute waiting period. This procedure will be conducted three times before impact pile driving begins. Soft start will be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

Pre-activity Monitoring—Prior to the start of daily in-water construction activity, or whenever a break in pile driving/removal or drilling of 30 minutes or longer occurs, PSOs will observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone will be considered cleared when a marine mammal has not been observed within the zone for that 30-minute period. If a marine mammal is observed within the shutdown zone, a soft-start cannot proceed until the animal has left the zone or has not been observed for 15 minutes. If the Level B harassment zone has been observed for 30 minutes and no species for which take is not authorized are present within the zone, soft start procedures can commence and work can continue even if visibility becomes impaired within the Level B harassment monitoring zone. When a marine mammal for which Level B harassment take is authorized is present in the Level B harassment zone, activities may begin and Level B harassment take will be recorded. If the entire Level B harassment zone is not visible at the start of construction, pile driving or drilling activities can begin. If work ceases for more than 30 minutes, the pre-activity monitoring of both the Level B harassment zone and shutdown zones will commence.

Based on our evaluation of the applicant's measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that these mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance as well as to ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Visual Monitoring

Marine mammal monitoring must be conducted in accordance with the Marine Mammal Monitoring Plan, dated March 2020. Marine mammal monitoring during pile driving and removal must be conducted by NMFS-approved PSOs in a manner consistent with the following:

- Independent PSOs (*i.e.,* not construction personnel) who have no other assigned tasks during monitoring periods must be used;
- Other PSOs may substitute education (degree in biological science or related field) or training for experience;
- Where a team of three or more PSOs are required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience working as a marine mammal observer during construction;
- HPMS must submit PSO CVs for approval by NMFS prior to the onset of pile driving.

PSOs must have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Three PSOs will be employed during all pile driving/removal and drilling activities. PSO locations will provide an unobstructed view of all water within the shutdown zone, and as much of the Level A and Level B harassment zones as possible. PSO locations are as follows:

(1) At or near the site of pile driving;

(2) Big Gavanski Island—During vibratory pile driving and down-the-hole drilling, this PSO will be stationed on the north end of the island, and positioned to view north into Olga Straight and southeast toward the project area. For impact pile driving, this PSO will be stationed on the east side of the island, and positioned to be able to view north into Olga Straight and south toward the project area; and

(3) Middle Island—During vibratory pile driving and down-the-hole drilling,

this PSO will be stationed on the north end of the island and positioned to be able to view west toward Kruzoff Island and east toward the project area. During impact pile driving, this PSO will be stationed on the east side of the island and positioned to view south toward Sitka Channel and east toward the project area.

Monitoring will be conducted 30 minutes before, during, and 30 minutes after pile driving/removal and drilling activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven or removed or anchor shafts being drilled. Pile driving and drilling activities include the time to install, remove, or drill inside a single pile or series of piles, as long as the time elapsed between uses of the pile driving or drilling equipment is no more than thirty minutes.

Reporting

A draft marine mammal monitoring report will be submitted to NMFS within 90 days after the completion of pile driving and removal activities. The report will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* percent cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Locations of all marine mammal observations;
- Detailed information about any implementation of any mitigation triggered (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting behavior of the animal, if any.
- Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals.
- An extrapolation of the estimated takes by Level B harassment based on the number of observed exposures within the Level B harassment zone and the percentage of the Level B harassment zone that was not visible; and
- Other human activity in the area.

If no comments are received from NMFS within 30 days, the draft report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the IHA-holder must immediately cease the specified activities and report the incident to the Office of Protected Resources (OPR) (301–427–8401), NMFS and to Alaska Regional Stranding Coordinator (907–586–7209) as soon as feasible. The report must include the following information:

i. Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

ii. Species identification (if known) or description of the animal(s) involved;

iii. Condition of the animal(s) (including carcass condition if the animal is dead);

iv. Observed behaviors of the animal(s), if alive;

v. If available, photographs or video footage of the animal(s); and

vi. General circumstances under which the animal was discovered.

NMFS will work with HPMS to determine what, if anything, is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. HPMS must not resume their activities until notified by NMFS.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the majority of our analyses apply to all of the species listed in Table 7, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks in anticipated individual responses to activities, impact of expected take on the population due to differences in population status or impacts on habitat, they are described independently in the analysis below.

Pile driving/removal and drilling activities associated with the project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level A and Level B harassment, from underwater sounds generated from pile driving/removal and down-the-hole drilling. Potential takes could occur if individuals of these species are present in zones ensonified above the thresholds for Level A or Level B harassment, identified above, when these activities are underway.

The takes from Level A and Level B harassment will be due to potential behavioral disturbance, TTS and PTS. No mortality or serious injury is anticipated given the nature of the activity. Level A harassment is only anticipated for harbor seal and harbor porpoise. The potential for Level A harassment is minimized through the construction method and the implementation of the required mitigation measures (see *Mitigation* section).

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such

as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff 2006; HDR, Inc. 2012; Lerma 2014; ABR 2016). Most likely for pile driving and down-the-hole drilling, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving and drilling, although even this reaction has been observed primarily only in association with impact pile driving. Level B harassment will be reduced to the level of least practicable adverse impact through use of mitigation measures described herein. If sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring. While vibratory driving associated with the project may produce sound at distances of many kilometers from the project site, the project site itself is located in an active marine industrial area, as previously described. Therefore, we expect that animals annoyed by project sound will simply avoid the area and use more-preferred habitats, particularly as the project is expected to occur over just 19 in-water work days, with a maximum of eight hours of work per day, though less on most work days.

In addition to the expected effects resulting from authorized Level B harassment, we anticipate that harbor porpoises and harbor seals may sustain some limited Level A harassment in the form of auditory injury. However, animals that experience PTS will likely only receive slight PTS, *i.e.* minor degradation of hearing capabilities within regions of hearing that align most completely with the frequency range of the energy produced by pile driving, *i.e.* the low-frequency region below 2 kHz, not severe hearing impairment or impairment in the regions of greatest hearing sensitivity. If hearing impairment occurs, it is most likely that the affected animal will lose a few decibels in its hearing sensitivity, which in most cases is not likely to meaningfully affect its ability to forage and communicate with conspecifics.

The project is also not expected to have significant adverse effects on affected marine mammals' habitats. The project activities will not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Steller sea lion critical habitat has been defined in Southeast Alaska at major haulouts and major rookeries (50 CFR 226.202), however, the action area does not overlap with any Steller sea lion critical habitat. The closest Steller sea lion critical habitat to the project area is Kaiuchali Island, a three-acre rocky islet located slightly less than one mile southwest of Biorka Island. It is listed as ''Biorka Island'' in the critical habitat descriptions, and is over 25 km (13.5 nmi) southwest of the project area.

Critical habitat was recently proposed for the humpback whale in Southeast Alaska, including Sitka Sound (84 FR 54354, October 9, 2019), but it has not yet been finalized. Additionally, Sitka Sound is within the seasonal southeast Alaska humpback whale feeding BIA from March through November (Ferguson *et al.,* 2015). Construction is expected to occur during the tail end of the season specified for the BIA; however, project activities will only overlap with the BIA for approximately one to two months, and the project is expected to occur over just 19 in-water work days, further reducing the temporal overlap with the BIA. Additionally, the area of the BIA that may be affected by the planned project is small relative to both the overall area of the BIA and the overall area of suitable humpback whale habitat outside of this BIA. Therefore, take of humpback whales using the southeast Alaska humpback whale feeding BIA is not expected to impact reproduction or survivorship.

Sitka Sound is also within a gray whale migratory corridor BIA (Ferguson *et al.,* 2015). Construction is expected to occur during the beginning of the period of highest density in the BIA during the southbound migration (November to January). The Sound is also within the southeast Alaska BIA, an important area for gray whale feeding. Construction is expected to overlap with the end of the period with the highest gray whale densities in the southeast Alaska BIA (May through November). However, as noted for humpback whales, project activities will only overlap with high animal densities in the gray whale migratory and feeding BIAs for approximately one to two months, and the project is expected to occur over just 19 in-water workdays, further reducing the temporal overlap with the BIAs. Additionally, the area of the feeding BIA in which impacts of the planned project may occur is small relative to both the overall area of the BIA and the overall area of suitable gray whale habitat outside of this BIA. The area of Sitka Sound affected is also small relative to the rest of the Sound, such that it allows animals within the migratory corridor to still utilize Sitka Sound without necessarily being disturbed by the construction. Therefore, take of gray whales using the feeding and migratory BIAs is not expected to impact reproduction or survivorship.

As noted previously, since January 1, 2019, elevated gray whale strandings have occurred along the west coast of North America from Mexico through Alaska. The event has been declared an UME, though a cause has not yet been determined. While three Level B harassment takes of gray whale are authorized, this is an extremely small portion of the stock (0.01 percent), and HPMS will be required to implement a shutdown zone that includes the entire Level A harassment zone for low-frequency cetaceans such as gray whales.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality or serious injury is anticipated or authorized;
- The relatively small number of Level A harassment exposures are anticipated to result only in slight PTS within the lower frequencies associated with pile driving;
- The anticipated incidents of Level B harassment will consist of, at worst, temporary modifications in behavior that will not result in fitness impacts to individuals;
- The area impacted by the specified activity is very small relative to the overall habitat ranges of all species, BIAs, and proposed humpback whale critical habitat; and
- The activity is expected to occur over 19 in-water workdays with a maximum of eight hours of work per day, though less on most days.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other

than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The number of takes for each species authorized to be taken as a result of this project is included in Table 7. Our analysis shows that less than one-third of the best available population abundance estimate of each stock could be taken by harassment. Furthermore, these percentages conservatively assume that all takes of killer whale will be accrued to a single stock, when multiple stocks are known to occur in the project area. For the Alaska stock of minke whale, a lack of an accepted stock abundance value did not allow for the calculation of an expected percentage of the population that will be affected. The most relevant estimate of partial stock abundance is 1,233 minke whales for a portion of the Gulf of Alaska (Zerbini *et al.* 2006). Given three takes by Level B harassment for the stock, comparison to the best estimate of stock abundance shows less than one percent of the stock is expected to be impacted. The number of animals authorized to be taken for these stocks is considered small relative to the relevant stock's abundances even if each estimated taking occurred to a new individual, which is an unlikely scenario.

Based on the analysis contained herein of the activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

In order to issue an IHA, NMFS must find that the specified activity will not have an ''unmitigable adverse impact'' on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The project is in an area where subsistence hunting for harbor seals or sea lions could occur (Wolfe *et al.* 2013). Peak hunting season in southeast Alaska occurs during the month of November and again during March and April. During this time, seals are aggregated in shoal areas as they prey on forage species such as herring, making them easier to find and hunt (Wolfe *et al.* 2013). However, the project location is not preferred for hunting. There is little-to-no hunting documented in the vicinity and there are no harvest quotas for non-listed marine mammals. As such, the Old Sitka Dock North Dolphins Expansion Project is not expected to have impacts on the ability of hunters from southeast Alaska subsistence communities to harvest marine mammals. Additionally, HPMS contacted the Sitka Tribe of Alaska, but they did not raise any concerns regarding subsistence impacts. Therefore, NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses from HPMS's activities.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the Alaska Region, Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

Two marine mammal species, Mexico DPS humpback whales and Western DPS Steller sea lions, occur in the project area and are listed as threatened and endangered, respectively, under the ESA. The NMFS Alaska Regional Office Protected Resources Division issued a Biological Opinion under section 7 of the ESA, on the issuance of an IHA to HPMS under section 101(a)(5)(D) of the MMPA by the NMFS Permits and Conservation Division. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of either species, and is not likely to destroy or adversely modify western DPS Steller sea lion critical habitat. As noted above, the proposed humpback whale critical habitat has not yet been finalized.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Authorization

NMFS has issued an IHA to Halibut Point Marine Services LLC for the potential harassment of small numbers of seven marine mammal species incidental to the Old Sitka Dock North Dolphins Expansion project in Sitka, Alaska, provided the previously mentioned mitigation, monitoring and reporting requirements are conducted.

Dated: April 13, 2020.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA107]

Endangered Species; File No. 23861

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Midwest Biodiversity Institute (MBI) has applied in due form for a permit pursuant to the Endangered Species Act

of 1973, as amended (ESA). The permit application is for the incidental take of ESA-listed shortnose sturgeon (*Acipenser brevirostrum*), Gulf of Main Distinct population segment (GOM DPS) Atlantic sturgeon, or the New York Bight (NYB DPS) of Atlantic sturgeon. (*A. oxyrinchus*) and the GOM DPS Atlantic salmon *(Salmo salar)* associated with the otherwise lawful sampling of non-ESA listed fish in the Lower Kennebec River. The duration of the proposed permit is 10 years. NMFS is furnishing this notice in order to allow other agencies and the public an opportunity to review and comment on the application materials. All comments received will become part of the public record and will be available for review. An electronic copy of the revised application and proposed conservation plan may be obtained by contacting NMFS Office of Protected Resources (see **FOR FURTHER INFORMATION CONTACT**) or visiting *https://www.fisheries.noaa.gov/action/incidental-take-permit-midwest-biodiversity-institute.*

DATES: Written comments must be received at the appropriate address or fax number (see **ADDRESSES**) on or before May 18, 2020.

ADDRESSES: The application is available for download and review at *https://www.fisheries.noaa.gov/action/incidental-take-permit-midwest-biodiversity-institute* under the section heading ESA Section 10(a)(1)(B) Permits and Applications. The application is also available upon written request or by appointment in the following office: Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13752, Silver Spring, MD 20910; phone (301) 427–8402; fax (301) 713–4060.

You may submit comments, identified by NOAA–NMFS–2020–0059, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0059* click the ''Comment Now'' icon, complete the required fields, and enter or attach your comments.
- *Fax:* (301) 713–4060; Attn: Celeste Stout.
- *Mail:* Submit written comments to Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13631, Silver Spring, MD 20910; Attn: Celeste Stout.

Instructions: You must submit comments by one of the above methods to ensure that we receive, document, and consider them. Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.) confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Celeste Stout, Phone: (301) 427–8436 or Email: *celeste.stout@noaa.gov.*

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the 'taking' of a species listed as endangered or threatened. The ESA defines ''take'' to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA provides for authorizing incidental take of listed species. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Background

NMFS received a permit application from MBI on January 31, 2020. Based on our initial review of the application and conservation plan, we requested further information and clarification. On March 30, 2020, MBI submitted a revised and complete application for the take of ESA-listed shortnose sturgeon, Atlantic sturgeon and Atlantic salmon due to the sampling of non-ESA listed fish in the Lower Kennebec River. MBI proposes to continue an 18 yearlong (2002–19) systematic assessment of the fish assemblages at seven sites in an approximate 17.5 mile (28.2 km) reach of the Lower Kennebec River and three sites in a 6 mile (9.7 km) reach of the Sebasticook River. MBI will conduct boat electrofishing where electric current is generated by a Smith-Root Generator Powered Pulsator and transmitted into the water by an electrode array suspended from the bow of 16–18 foot long (25–29 km) jon boats or a 16 foot long inflatable Wing raft. NMFS determined that the application contained sufficient information for review and consideration under section 10(a)(1)(B) of the ESA. MBI is requesting a total annual incidental take of four Atlantic salmon, four Atlantic sturgeon and five shortnose sturgeon for a permit duration of 10-years.

Conservation Plan

Section 10 of the ESA specifies that no permit may be issued unless an applicant submits an adequate conservation plan. The conservation plan prepared by MBI describes measures designed to minimize and mitigate the impacts of any incidental take of ESA-listed shortnose sturgeon, Atlantic sturgeon and Atlantic salmon. To avoid and minimize take of ESA listed species, MBI will: (1) Only sample during the late summer and early fall to avoid potential risk to early life stages and juveniles, as these life stages of shortnose and Atlantic sturgeon species are not present in the river during that time period. There is no risk to Atlantic salmon early life stages because spawning and rearing occurs in tributaries well outside of the proposed study area. (2) MBI will notify NOAA, Maine Department of Marine Resources (DMR) and Maine Department of Inland Fisheries & Wildlife (IF&W) at least one week prior to any planned sampling activities. The notification will include a general schedule and inclusive dates of sampling. (3) All MBI and accompanying non-MBI personnel conducting the sampling will have received appropriate training in electrofishing and in the identification of listed species. At the start of each sampling day, each crewmember will receive instruction about the procedures to follow if a listed species is encountered. (4) The conduct of sampling and operation of the electrofishing gear will be done in a manner that minimizes the potential for injury or mortality of listed species. (4a) The electric current and the sampling activity will immediately cease upon an encounter with a listed species. Affected fish will not be netted, touched, or handled. Species identification and estimation of length will be made visually. To minimize effects to Atlantic salmon, sampling will not be conducted when ambient water temperature is >22°C (per Maine DMR specifications). (4b) Sampling activities will cease and the electric current will be shut off for a period of 5 minutes or until the individual fish is observed to have departed the area. The physical condition of the fish will be recorded, including their reaction to the electric field and whether they were able to leave the area under their own power. (5) Any encounter with a listed species will be promptly reported to the Office

of Protected Recourses, Endangered Species Conservation Division.

MBI considered and rejected other gear alternatives to conduct the sampling because the alternative means of sampling the study area are too resource intensive and cost-ineffective compared to the single gear of boat-mounted pulsed direct current (DC) electrofishing. Other possible alternatives would require the direct handling of listed species and thus increase the risk of injury or mortality to the fish. MBI believes that combination of that risk and the comparative inefficiency and ineffectiveness of alternate fish collecting gear types makes boat-mounted pulsed DC electrofishing the safest and most effective sampling method available.

At present, the project is funded by MBI research and development funds, but MBI continues to seek external funding. This project has been ongoing for 18 years and is one of the longest running biological monitoring projects in New England and the only sustained effort that focuses on large river fish assemblages.

National Environmental Policy Act

Issuing an ESA section 10(a)(1)(B) permit constitutes a Federal action requiring NMFS to comply with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) as implemented by 40 CFR parts 1500–1508 and NOAA Administrative Order 216–6, Environmental Review Procedures for Implementing the National Policy Act (1999). An initial determination has been made, by NMFS, that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Next Steps

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and comments received during the comment period to determine whether the application meets the requirements of section 10(a) of the ESA. If NMFS determines that the requirements are met, a permit will be issued for incidental takes of ESA-listed shortnose and Atlantic sturgeon and Atlantic salmon. The final NEPA and permit determinations will not be made until after the end of the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: April 13, 2020.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2020–08092 Filed 4–16–20; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products and services from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* May 17, 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.

Additions

On 9/6/2019 and 3/6/2020, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are 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 any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products 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 proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products

NSNs—Product Names:
7490–00–NIB–0054—Scale, Shipping, Digital, 25 LB. Capacity, Black/Metallic
Mandatory Source of Supply: Asso. for the Blind and Visually Impaired-Goodwill Industries of Greater Rochester, Inc., Rochester, NY
Mandatory For: Total Government Requirement
Contracting Activity: FEDERAL ACQUISITION SERVICE, GSA/FAS ADMIN SVCS ACQUISITION BR(2

NSNs—Product Names:
8405–01–683–2301—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 16 T
8405–01–683–2308—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 16 1/2 T
8405–01–683–2316—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 17 T
8405–01–683–2330—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 18 1/2 T
8405–01–683–2325—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 18 T
8405–01–683–2335—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 19 T
8405–01–683–2522—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 15 1/2
8405–01–683–2567—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 16
8405–01–683–2574—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 16 1/2
8405–01–683–2579—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 17
8405–01–683–2582—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 17 1/2
8405–01–683–2585—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 18 1/2

8405–01–683–2588—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 18 1/2
8405–01–683–2594—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 19
8405–01–683–2525—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 15 1/2 T
8405–01–683–2566—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 16 T
8405–01–683–2575—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 16 1/2 T
8405–01–683–2581—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 17 T
8405–01–683–2583—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 17 1/2 T
8405–01–683–2586—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 18 T
8405–01–683–2595—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 19 T
8405–01–683–2599—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 19 1/2 T
8405–01–683–2601—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 20 T
8405–01–683–2591—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Athletic Fit, Heritage Tan, 18 1/2 T
8405–01–683–2320—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 17 1/2 T
8405–01–683–2284—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 13 1/2 R
8405–01–683–2279—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 14 R
8405–01–683–2287—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 14 1/2 R
8405–01–683–2292—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 15 R
8405–01–683–2295—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 15 ½ R
8405–01–683–2299—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 16 R
8405–01–683–2304—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 16 ½ R
8405–01–683–2310—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 17 R
8405–01–683–2319—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 17 ½ R
8405–01–683–2324—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 18 R
8405–01–683–2327—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 18 ½ R
8405–01–683–2333—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 19 R
8405–01–683–2288—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 14 ½ T
8405–01–683–2293—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 15 T
8405–01–683–2297—Shirt, Army Green Service Uniform, Men's, Frch Plkt, S/S, Classic Fit, Heritage Tan, 15 ½ T

Mandatory Source of Supply: Goodwill Industries of South Florida, Inc., Miami, FL
Contracting Activity: DEPT OF THE ARMY, W6QK ACC–APG NATICK

Deletions

On 3/13/2020, 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 product(s) and service(s) 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 product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following products and services are deleted from the Procurement List:

Products

NSNs—Product Names:
8940–00–NIB–0094—Soup, Shelf-Stable, Cream of Mushroom, Low Sodium
8940–00–NIB–0095—Soup, Shelf-Stable, Cream of Chicken

Mandatory Source of Supply: Cambridge Industries for the Visually Impaired—Deleted, Somerset, NJ
Contracting Activity: DEPT OF AGRIC/AGRICULTURAL MARKETING SERVICE, WASHINGTON, DC

Services

Service Type: Janitorial/Custodial
Mandatory for: Smithsonian Institution Service Center: 1111 North Carolina Street, NE, Washington, DC
Mandatory Source of Supply: Melwood Horticultural Training Center, Inc., Upper Marlboro, MD
Contracting Activity: SMITHSONIAN INSTITUTION, SMITHSONIAN INSTITUTION

Service Type: Janitorial/Custodial
Mandatory for: Backbay National Wildlife Refuge, Virginia Beach, VA
Mandatory Source of Supply: Community Alternatives, Incorporated, Norfolk, VA
Contracting Activity: OFFICE OF POLICY, MANAGEMENT, AND BUDGET, NBC ACQUISITION SERVICES DIVISION

Service Type: Mailroom Operation
Mandatory for: Internal Revenue Service: 300 North Los Angeles Street, Los Angeles, CA
Mandatory Source of Supply: Elwyn, Aston, PA
Contracting Activity: TREASURY, DEPARTMENT OF THE, DEPT OF TREAS/

Service Type: Janitorial/Custodial
Mandatory for: Paul E. Garber Complex: 3904 Old Silver Hill Road, Suitland, MD
Mandatory Source of Supply: Melwood Horticultural Training Center, Inc., Upper Marlboro, MD
Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR

Service Type: Carwash Service
Mandatory for: U.S. Border Patrol: 536 Barbara Worth Road, Calexico, CA
Mandatory for: U.S. Border Patrol: 221 W. Aten Rd, Imperial, CA
Mandatory for: U.S. Border Patrol: 1111 N. Imperial Ave, El Centro, CA
Mandatory Source of Supply: ARC-Imperial Valley, El Centro, CA
Contracting Activity: U.S. CUSTOMS AND BORDER PROTECTION, BORDER ENFORCEMENT CONTRACTING DIVISION

Service Type: Janitorial/Custodial
Mandatory for: U.S. Army Reserve Center: Edison, MG Willian Weigal, Edison, NJ
Contracting Activity: DEPT OF THE ARMY, W6QM MICC CTR–FT DIX (RC)

Service Type: Forms Distribution Service
Mandatory for: Department of Health and Human Services, Agency for Healthcare Research and Quality, Rockville, MD
Mandatory Source of Supply: Melwood Horticultural Training Center, Inc., Upper Marlboro, MD
Contracting Activity: AGENCY FOR HEALTH CARE POLICY AND RESEARCH, PHS AHRQ, HHS, ROCKVILLE, MD

Service Type: Mailroom Operation
Mandatory for: USDA, Rural Development Agency, St. Louis, MO
Mandatory Source of Supply: MGI Services Corporation, St. Louis, MO
Contracting Activity: RURAL HOUSING SERVICE, RURAL DEVELOPMENT

Service Type: Grounds Maintenance
Mandatory for: U.S. Geological Survey: Wildlife Research Center, Patuxent, MD
Mandatory Source of Supply: Melwood Horticultural Training Center, Inc., Upper Marlboro, MD
Contracting Activity: OFFICE OF POLICY,

MANAGEMENT, AND BUDGET, NBC ACQUISITION SERVICES DIVISION

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2020–08115 Filed 4–16–20; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed additions and deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products and a service previously furnished by such agencies.

DATES: Comments must be received on or before: May 17, 2020.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSNs–Product Names:
8920–01–E62–6404–Rice, Long Grain, Parboiled, White, 4/10 lb. Bags
8920–01–E62–6405–Rice, Long Grain, Parboiled, Brown, 4/10 lb. Bags
Mandatory Source of Supply: VisionCorps, Lancaster, PA
Contracting Activity: DEFENSE LOGISTICS AGENCY, DLA TROOP SUPPORT

Deletions

The following products and service are proposed for deletion from the Procurement List:

Products

NSNs—Product Names:
MR 407—Bag, Shopping Tote, Laminated, Large, ''Live Well''
MR 436—Laminated Bag, Small Holiday Fun
MR 437—Laminated Bag, Small Rein Deer
Mandatory Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI
Contracting Activity: Military Resale-Defense Commissary Agency

Service

Service Type: Janitorial/Custodial
Mandatory for: NISE: East Building, North Charleston, SC
Mandatory Source of Supply: Palmetto Goodwill Services, North Charleston, SC
Contracting Activity: PUBLIC BUILDINGS SERVICE, ACQUISITION DIVISION/SERVICES BRANCH

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2020–08116 Filed 4–16–20; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 20–15]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–15 with attached Policy Justification and Sensitivity of Technology.

Dated: April 13, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BIILING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

March 30, 2020

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-15 concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Republic of Korea for defense articles and services estimated to cost $194 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

BIILING CODE 5001–06–C

Transmittal No. 20-15

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser*: Republic of Korea

(ii) *Total Estimated Value*:

Major Defense Equipment* ..	$0 million
Other	$194 million
TOTAL	$194 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase*: The Republic of Korea has requested to upgrade its F-16 Block 32 aircraft with Mode 5 Identification Friend or Foe (IFF) and Link 16 Tactical Datalink (TDL).

Major Defense Equipment (MDE):
None

Non-MDE:
Included are ARC-238 radios; AN/APX-126 Combined Interrogator Transponders; Joint Mission Planning (JMPS) upgrade; KY-58M secure voice module; Simple Key Loader (SKL)

crypto fill devices; Precision Measurement Equipment Laboratory (PMEL); aircraft ferry support; training; Computer Program Identification Number System (CPINS); flight manuals; flight tests; integration support and test equipment; U.S. Government and contractor, engineering, technical and logistics support services; sustainment and other support equipment; and other related elements of logistical and program support.

(iv) *Military Department*: Air Force (KS-D-QGD)

(v) *Prior Related Cases, if any*: KS-D-QBY

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid*: None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold*: See Attached Annex

(viii) *Date Report Delivered to Congress*:

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Korea —F-16 Identification Friend or Foe (IFF) & Link 16 Upgrades

The Republic of Korea has requested to upgrade its F-16 Block 32 aircraft with Mode 5 Identification Friend or Foe (IFF) and Link 16 Tactical Datalink (TDL). Included are ARC-238 radios; AN/APX-126 Combined Interrogator Transponders; Joint Mission Planning (JMPS) upgrade; KY-58M secure voice module; Simple Key Loader (SKL) crypto fill devices; Precision Measurement Equipment Laboratory (PMEL); aircraft ferry support; training; Computer Program Identification Number System (CPINS); flight manuals; flight tests; integration support and test equipment; U.S. Government and contractor, engineering, technical and logistics support services; sustainment and other support equipment; and other related elements of logistical and program support. The total estimated cost is $194 million.

This proposed sale will support the foreign policy and national security objectives of the United States by meeting legitimate security and defense needs of one of the U.S.'s closest allies in the INDOPACOM Theater. The Republic of Korea is one of the major political and economic powers in East Asia and the Western Pacific and a key partner of the United States in ensuring peace and stability in the region. It is vital to U.S. national interests to assist the Republic of Korea in developing and maintaining a strong and ready self-defense capability.

The proposed sale will improve the Republic of Korea's capability to meet current and future threats by increasing its interoperability with U.S. Air Force and other coalition forces through an improved datalink and Mode 5 IFF, producing a more effective Alliance for its F-16 fleet. The Republic of Korea will have no difficulty absorbing this upgrade into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The prime contractor will be Lockheed Martin Corporation, Bethesda, MD. There are no known offset agreements proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the Purchaser and the prime contractor.

Implementation of this proposed sale will not require the assignment of additional U.S. Government and/or contractor representatives to Republic of Korea above the current four (4) incountry contractor representatives.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20-15

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The AN/APX-126 Advanced Identification Friend or Foe (AIFF) is a system capable of transmitting and interrogating Mode 5. It is UNCLASSIFIED unless/until Mode 4 and/or Mode 5 operational evaluator parameters are loaded into the equipment. Classified elements of the IFF system include software object code, operating characteristics, parameters, and technical data. Mode 4 and Mode 5 anti-jam performance specifications/ data, software source code, algorithms, and tempest plans or reports will not be offered, released, discussed or demonstrated.

2. The KY-58M is a lightweight terminal for secure voice and data communications. The KY-58M provides wideband/ narrowband half duplex communication. The KY-58M provides flexible interface capability. Operating in tactical ground, marine and airborne applications, the KY-58M enables secure communication with a broad range of radio and satellite equipment.

3. The AN/ARC-238 radio with HAVE QUICK II/SATURN is a voice communications radio system and considered UNCLASSIFIED without HAVE QUICK II/SATURN. HAVE QUICK II/SATURN employs cryptographic technology that is classified SECRET. Classified elements include operating characteristics, parameters, technical data, and keying material.

4. Joint Mission Planning System (JMPS) is a multi-platform PC based mission planning system. JMPS hardware is UNCLASSIFIED but the software is classified up to SECRET.

5. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

6. A determination has been made that the Republic of Korea can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

7. All defense articles and services listed in this transmittal have been authorized for release and export to the Republic of Korea.

[FR Doc. 2020–08076 Filed 4–16–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Table Rock Lake Oversight Committee Meetings; Notice of Federal Advisory Committee Meeting; Cancellation

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of federal advisory committee meeting; cancellation.

SUMMARY: On February 6, 2020, the Department of Defense (DoD) published an updated notice that announced the third meeting of the Table Rock Lake Oversight Committee, which was to take place on Wednesday, May 6, 2020 from 8:00 a.m. to 5:00 p.m. DoD is publishing this notice to announce that this federal advisory committee meeting has been cancelled due to COVID–19 concerns (the State of Missouri is under ''Stay at Home'' orders) and will be re-scheduled at a later date, along with meeting four.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin McDaniels, Designated Federal Officer (DFO) for the Committee, in writing at U.S. Army Corps of Engineers, Little Rock District, Operations Division, P.O. Box 867 Little

Rock, Arkansas 72203–0867, or by email at *CESWL-TRLOC-DFO@usace.army.mil.*

SUPPLEMENTARY INFORMATION: This notice meets the 15-day notification requirement as required by 41 CFR 102–3.150(a) concerning the cancellation of its previously noticed meeting of May 6, 2020.

On February 6, 2020, the Department of Defense (DoD) published an updated notice (85 FR 6937) that announced the third meeting of the Table Rock Lake Oversight Committee, which was to take place on Wednesday, May 6, 2020 from 8:00 a.m. to 5:00 p.m. DoD is publishing this notice to announce that this federal advisory committee meeting has been cancelled due to COVID–19 concerns (the State of Missouri is under ''Stay at Home'' orders) and will be re-scheduled at a later date, along with meeting four. The rescheduled meetings will be announced in the **Federal Register**.

Dated: April 10, 2020.

Pete G. Perez,

Director, Programs Directorate.

[FR Doc. 2020–08071 Filed 4–16–20; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2020–SCC–0060]

Agency Information Collection Activities; Comment Request; Loan Discharge Applications (DL/FFEL/Perkins)

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 16, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0060. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave SW, LBJ, Room 6W–208D, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Loan Discharge Applications (DL/FFEL/Perkins).

OMB Control Number: 1845–0058.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 30,051.

Total Estimated Number of Annual Burden Hours: 15,027.

Abstract: The Department of Education is requesting an extension of the currently approved information collection.

This information collection is necessary for loan holders in the FFEL, Direct Loan, and Perkins Loan programs to obtain the information that is needed to determine whether a borrower qualifies for a closed school or false certification loan discharge. The loan discharge regulations in all three loan programs require borrowers who seek discharge of their FFEL, Direct Loan, or Perkins Loan program loans to request a loan discharge and provide their loan holders with certain information in writing.

This information collection includes the following five loan discharge applications that are used to obtain the information needed to determine whether a borrower qualifies for a closed school discharge, false certification—ATB, false certification—disqualifying status, false certification—unauthorized signature/unauthorized payment or unpaid refund loan discharges.

Dated: April 14, 2020.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer.

[FR Doc. 2020–08173 Filed 4–16–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD20–10–000]

Standard Applied to Complaints Against Oil Pipeline Index Rate Changes

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of inquiry.

SUMMARY: Following the issuance of *HollyFrontier Refining & Marketing LLC* v. *SFPP, L.P.,* 170 FERC ¶ 61,133 (2020), the Federal Energy Regulatory Commission (Commission) seeks comment on the Commission's recent proposal to eliminate the Substantially Exacerbate Test as the preliminary screen applied to complaints against oil pipeline index rate changes under 18 CFR 343.2(c)(1) and to apply the Percentage Comparison Test as the preliminary screen for complaints. The Commission also seeks comment on the use of the 10% threshold when applying the Percentage Comparison Test to complaints.

DATES: Initial Comments are due June 16, 2020, and Reply Comments are due July 16, 2020.

ADDRESSES: Comments, identified by docket number, may be filed electronically at *http://www.ferc.gov* in acceptable native applications and print-to-PDF, but not in scanned or picture format. For those unable to file electronically, comments may be filed by mail or hand-delivery to: Federal Energy Regulatory Commission, Secretary of the Commission, at Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Evan Steiner (Legal Information), Office of the General Counsel, 888 First Street NE, Washington, DC 20426, (202) 502–8792, *Evan.Steiner@ferc.gov.* Monil Patel (Technical Information), Office of Energy Market Regulation, 888 First Street NE, Washington, DC 20426, (202) 502–8296, *Monil.Patel@ferc.gov.*

SUPPLEMENTARY INFORMATION: 1. In *HollyFrontier Refining & Marketing LLC* v. *SFPP, L.P.,*[1] the Commission proposed to eliminate the Substantially Exacerbate Test as the preliminary screen applied to complaints against index rate increases and to evaluate such complaints by applying the Percentage Comparison Test. The Commission further stated that it planned to initiate a separate, generic proceeding to request briefing from industry participants.[2] As contemplated in *HollyFrontier,* we invite public comment on the merits of this proposal as well as the use of the 10% threshold when applying the Percentage Comparison Test to complaints.

I. Background

2. The Commission regulates oil pipeline rates pursuant to the Interstate Commerce Act's just and reasonable standard.[3] In accordance with the Energy Policy Act of 1992,[4] the Commission adopted the indexing regime to provide a simplified and generally applicable ratemaking methodology for oil pipelines and created streamlined procedures related to oil pipeline rates.[5] Indexing allows oil pipelines to change their tariff rates so long as those rates remain at or below applicable ceiling levels. When the Commission created indexing, it also added page 700 to Form No. 6 to provide cost, revenue, and throughput information so that the Commission and the industry can monitor these indexed rates.[6]

3. In adopting the indexing regime, the Commission established a procedure to allow shippers to challenge index rate increases that, while in compliance with the applicable ceiling, are substantially in excess of the actual cost changes that the pipeline incurred.[7] Section 343.2(c)(1) of the Commission's regulations provides that a protest or complaint against an index rate increase must allege ''reasonable grounds'' that the index rate increase is ''so substantially in excess of the actual cost increases incurred by the carrier that the rate is unjust and unreasonable.''[8] The Commission reviews protests and complaints against index rate increases by: (1) Applying a preliminary screen based on cost and revenue data from the pipeline's page 700; and (2) if the preliminary screen is satisfied, investigating the rate or rate increase at a hearing.

4. Under the Commission's current policy, the preliminary screen differs for protests and complaints. When a proposed index rate increase is protested, the Commission applies the Percentage Comparison Test and will investigate the protested increase if the pipeline's page 700 revenues exceed its costs and there is more than a 10 percentage-point differential between: (a) The index rate increase; and (b) the change in the prior two years' total cost-of-service data reported on page 700, line 9.[9] By contrast, when a complaint against an index rate increase is filed, the Commission considers ''a wider range of factors beyond the Percentage Comparison Test,'' including the Substantially Exacerbate Test.[10] Pursuant to the Substantially Exacerbate Test, the Commission will investigate a complaint against an index rate increase if the complaint shows that: (1) The pipeline is substantially over-recovering its cost of service (first prong); and (2) the index rate increase so exceeds the actual increase in the pipeline's cost that the resulting rate increase would substantially exacerbate the pipeline's over-recovery (second prong).[11]

II. HollyFrontier Proceedings

5. In 2014, two complaints were filed in Docket Nos. OR14–35–000 and OR14–36–000 challenging SFPP, L.P.'s (SFPP) index rate increases for the 2012 and 2013 index years under § 343.2(c)(1) (2014 Complaints). The Commission dismissed the complaints for failing the second prong of the Substantially Exacerbate Test, finding that the complaints failed to show that the challenged rate increases exacerbated any over-recovery because, notwithstanding the rate increases, page 700 data that became available after SFPP implemented the increases and before the 2014 Complaints were filed (post-increase data) showed that the difference between SFPP's costs and revenues declined between 2011 and 2013.[12]

6. Following an appeal by the complainants, the United States Court of Appeals for the District of Columbia Circuit held in *Southwest Airlines Co.* v. *FERC*[13] that the Commission's consideration of post-increase data in evaluating the 2014 Complaints marked an unjustified departure from the Commission's prior practice of considering only pre-increase data in evaluating challenges to index rate increases.[14] The court vacated and remanded the Commission's orders dismissing the 2014 Complaints so that the Commission, if it chose to consider post-increase data in evaluating the complaints, could persuasively distinguish or knowingly abandon its prior inconsistent practice.[15] The court directed the Commission on remand to ''explain its action in a way that coheres with the rest of its indexing scheme''

[1] 170 FERC ¶ 61,133 (2020) (*HollyFrontier*).

[2] *Id.* P 46 n.82.

[3] 49 U.S.C. app. 1(5) (1988).

[4] Energy Policy Act of 1992, Public Law 102–486 1801(b), 106 Stat. 3010 (Oct. 24, 1992).

[5] *See Revisions to Oil Pipeline Regulations Pursuant to Energy Policy Act of 1992,* Order No. 561, FERC Stats. & Regs. ¶ 30,985 (1993), (cross-referenced at 65 FERC ¶ 61,109), *order on reh'g and clarification,* Order No. 561–A, FERC Stats. & Regs. ¶ 31,000 (1994) (cross-referenced at 68 FERC ¶ 61,138), *aff'd sub nom. Ass'n of Oil Pipe Lines* v. *FERC,* 83 F.3d 1424 (D.C. Cir. 1996).

[6] *Cost-of-Service Reporting and Filing Requirements for Oil Pipelines,* Order No. 571, FERC Stats. & Regs. ¶ 31,006 (1994), (cross-referenced at 69 FERC ¶ 61,102), *order on reh'g and clarification,* Order No. 571–A, FERC Stats. & Regs. ¶ 31,012 (1994), (cross-referenced at 69 FERC ¶ 61,411) *aff'd sub nom. Ass'n of Oil Pipe Lines* v. *FERC,* 83 F.3d 1424 (D.C. Cir. 1996); *see also Revisions to and Electronic Filing of the FERC Form No. 6 and Related Uniform Systems of Accounts,* Order No. 620, FERC Stats. & Regs. ¶ 31,115 (2000) (cross-referenced at 93 FERC ¶ 61,262), *reh'g denied,* Order No. 620–A, 94 FERC ¶ 61,130 (2001); *Revisions to Page 700 of FERC Form No. 6,* Order No. 783, 144 FERC ¶ 61,049, at PP 29–40 (2013), *reh'g denied,* Order No. 783–A, 148 FERC ¶ 61,235 (2014). All jurisdictional pipelines are required to file page 700, including pipelines exempt from filing the full Form No. 6. 18 CFR 357.2(a)(2)–(3).

[7] Order No. 561, FERC Stats. & Regs. ¶ 30,985 at 30,951.

[8] 18 CFR 343.2(c)(1).

[9] *E.g., SFPP, L.P.,* 168 FERC ¶ 61,043, at P 4 (2019) (citing *Calnev Pipe Line, L.L.C.,* 130 FERC ¶ 61,082, at PP 10–11 (2010)).

[10] *E.g., Calnev Pipe Line L.L.C.,* 130 FERC ¶ 61,082 at P 11 (citing *BP W. Coast Prods. LLC* v. *SFPP, L.P.,* 121 FERC ¶ 61,243, at PP 8–9 (2007); *BP W. Coast Prods., LLC* v. *SFPP, L.P.,* 121 FERC ¶ 61,141, at P 7 (2007)).

[11] *E.g., BP W. Coast Prods., LLC* v. *SFPP, L.P.,* 121 FERC ¶ 61,141 at P 10.

[12] *HollyFrontier Ref. & Mktg. LLC* v. *SFPP, L.P.,* 157 FERC ¶ 61,186, at P 9 (2016).

[13] 926 F.3d 851 (D.C. Cir. 2019).

[14] *Id.* at 856–59.

[15] *Id.* at 859.

and ''provide a reasoned explanation that treats like cases alike.'' [16]

7. In 2019, three additional complaints were filed in Docket Nos. OR19–21–000, OR19–33–000, and OR19–37–000 challenging certain SFPP index rate increases for the 2018 index year (2019 Complaints).

III. Discussion

8. In response to the remand in *Southwest Airlines* and the 2019 Complaints, the Commission issued the *HollyFrontier* order proposing to revise the Commission's policy for reviewing complaints against index rate increases by eliminating the Substantially Exacerbate Test as the preliminary screen applied to such complaints and applying the Percentage Comparison Test to both protests and complaints under § 343.2(c)(1).[17]

9. In *HollyFrontier,* the Commission explained that several considerations support this proposed change in policy. First, the Substantially Exacerbate Test has not been defined and lacks clear standards.[18] Second, the Substantially Exacerbate Test suffers from an inherent mechanical flaw that makes developing analytically sound thresholds unworkable and causes the test to yield irrational results.[19] Third, the Substantially Exacerbate Test is arguably inconsistent with the purposes of indexing because rather than measure the challenged index rate increase relative to the pipeline's already incurred annual cost increases, it considers whether the increase will substantially worsen the gap between the pipeline's revenues and costs going forward.[20] Fourth, the Substantially Exacerbate Test appears to be inconsistent with Commission regulations because it does not consider whether the challenged index rate increase is ''so substantially in excess of the actual cost increases incurred by the carrier that the rate is unjust and unreasonable,'' as required by § 343.2(c)(1).[21] Finally, eliminating the Substantially Exacerbate Test would not deprive shippers of the ability to challenge a pipeline's rates where the pipeline is substantially over-recovering its cost of service because regardless of the standard applied to complaints against individual index rate increases, shippers can file a cost-of-service complaint challenging the pipeline's rates that have historically been indexed.[22]

10. In light of these concerns regarding use of the Substantially Exacerbate Test to evaluate complaints under § 343.2(c)(1), the Commission in *HollyFrontier* proposed to eliminate the Substantially Exacerbate Test and apply the Percentage Comparison Test to both protests and complaints. Under this proposed approach, the Commission would apply the Percentage Comparison Test to complaints against index rate increases and establish a hearing to investigate the increase when the complaint shows that the pipeline's page 700 shows that revenues exceed its costs and that there is a 10% or more differential between: (a) The proposed index rate increase; and (b) the annual percentage change in cost of service reported on line 9, page 700, over the two years preceding the index rate increase.[23]

11. The Commission explained how this proposed change in policy appears to resolve the concerns regarding the current policy of applying the Substantially Exacerbate Test. The Commission explained that the Percentage Comparison Test is free of the apparent methodological defect that causes the Substantially Exacerbate Test to yield irrational results [24] and more closely conforms to indexing's purpose and the language of § 343.2(c)(1).[25] In addition, the Commission stated that the proposed change in policy would respond to the court's concerns in *Southwest Airlines* by adopting a single test applicable to all challenges to index rate changes that relies solely upon pre-increase data.[26]

12. The Commission also proposed in *HollyFrontier* to maintain the Percentage Comparison Test's existing 10% threshold in applying the test to complaints, consistent with the Commission's historical practice involving protests against index rate changes.[27] The Commission noted that the 10% threshold could apply to complaints as well as protests because it preserves indexing's cost efficiency incentives and encourages pipelines to control costs.[28] Moreover, the Commission stated that high annual volatility in oil pipeline cost and volume data militates against adopting a threshold below 10%, because lower thresholds could result in distorted outcomes.[29] The Commission invited the parties to comment on the use of the 10% threshold for complaints against index rate increases and to present and justify any alternative threshold they believe would be superior.[30]

13. The Commission directed the parties in the *HollyFrontier* proceedings to submit briefs addressing the merits of the Commission's proposal.[31] The Commission further stated that it planned to initiate a separate, generic proceeding to request briefing from industry participants.[32]

14. As contemplated in *HollyFrontier,* we therefore now invite public comment on the Commission's proposal to eliminate the Substantially Exacerbate Test as the preliminary screen applied to complaints against index rate increases and to apply the Percentage Comparison Test as the preliminary screen for both protests and complaints under § 343.2(c)(1). The comments should address the merits of the Commission's proposal; whether the Commission should apply the Percentage Comparison Test's existing 10% threshold to complaints; and whether and how the Commission should consider additional factors beyond the Percentage Comparison Test in evaluating complaints against index rate increases. The comments may also propose alternative methods or standards for the Commission to apply in determining whether a complaint against an index rate increase satisfies the requirements of § 343.2(c)(1). The comments should fully justify any such alternatives and explain why the alternative is superior to the Percentage Comparison Test. In addition, the comments may propose alternative Percentage Comparison Test thresholds, but must fully explain why any such alternative thresholds are superior to the 10% threshold.

15. After publication of this Notice of Inquiry in the **Federal Register**, the Commission will extend the comment deadlines in the *HollyFrontier* proceedings so that the period for comments in *HollyFrontier* aligns with the period for comments in the instant docket.

IV. Comment Procedures

16. The Commission invites public comment on the proposals discussed in *HollyFrontier.* Initial Comments are due

[16] *Id.*

[17] *HollyFrontier,* 170 FERC ¶ 61,133 at P 21. The Commission further explained that under this proposed approach, it would continue to strictly confine its evaluation of protests to the Percentage Comparison Test while retaining the discretion to consider additional factors in evaluating complaints. *Id.* P 37.

[18] *Id.* PP 22–23.

[19] *Id.* PP 24–26.

[20] *Id.* P 27.

[21] *Id.* PP 28–30.

[22] *Id.* PP 31, 38.

[23] *Id.* P 32.

[24] *Id.* P 33.

[25] *Id.* P 34.

[26] *Id.* P 35.

[27] *Id.* P 39.

[28] *Id.* PP 42–43.

[29] *Id.* P 44.

[30] *Id.* P 45.

[31] *Id.* P 46.

[32] *Id.* P 46 n.82.

by June 16, 2020, and Reply Comments are due by July 16, 2020.

17. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

18. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, at Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

19. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

V. Document Availability

20. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). 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.

21. 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.

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

Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By direction of the Commission.

Issued: March 25, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–08178 Filed 4–16–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20–50–000.
Applicants: Roundhouse Renewable Energy, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act, et al. of Roundhouse Renewable Energy, LLC.
Filed Date: 4/10/20.
Accession Number: 20200410–5207.
Comments Due: 5 p.m. ET 5/1/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2475–019; ER10–2474–019; ER10–3246–013; ER13–1266–022; ER15–2211–019.
Applicants: Nevada Power Company, Sierra Pacific Power Company, PacifiCorp, CalEnergy, LLC, MidAmerican Energy Company.
Description: Supplement to June 28, 2019 Updated Market Power Analysis for the Northwest Region of the BHE Northwest Entities, et al.
Filed Date: 4/13/20.
Accession Number: 20200413–5171.
Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: ER11–3376–005; ER11–3377–005; ER11–3378–005.
Applicants: North Hurlburt Wind, LLC, Horseshoe Bend Wind, LLC, South Hurlburt Wind, LLC.
Description: Supplement to December 13, 2019 Triennial Market Power Analysis for Northwest Region of North Hurlburt Wind, LLC, et. al.
Filed Date: 4/10/20.
Accession Number: 20200410–5205.
Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER16–1969–007.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2020–04–13_NIPSCO Compliance Filing. to be effective 3/20/2020.
Filed Date: 4/13/20.
Accession Number: 20200413–5170.
Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: ER20–432–000.
Applicants: The Empire District Electric Company.
Description: Supplement and Amendment to November 30, 2019 Application for Waiver of Affiliate Rules of The Empire District Electric Company.
Filed Date: 4/9/20.
Accession Number: 20200409–5191.
Comments Due: 5 p.m. ET 4/30/20.

Docket Numbers: ER20–807–000.
Applicants: Ruff Solar LLC.
Description: Second Supplement to January 15, 2020 Ruff Solar LLC tariff filing.
Filed Date: 4/13/20.
Accession Number: 20200413–5033.
Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: ER20–1551–000.
Applicants: The Potomac Edison Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: The Potomac Edison Company submits ECSA SA No. 4985 to be effective 6/9/2020.
Filed Date: 4/10/20.
Accession Number: 20200410–5147.
Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1552–000.
Applicants: California Independent System Operator Corporation.
Description: Compliance filing: 2020–04–10 Petition for Limited Waiver of Tariff Provisions re RAAIM to be effective N/A.
Filed Date: 4/10/20.
Accession Number: 20200410–5165.
Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1553–000.
Applicants: American Transmission Systems, Incorporated, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: ATSI submits ECSA SA No. 4986 to be effective 6/9/2020.
Filed Date: 4/10/20.
Accession Number: 20200410–5213.
Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ER20–1554–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3243R1 City of Piggott, AR Municipal Light, Water and Sewer to be effective 4/1/2020.
Filed Date: 4/13/20.
Accession Number: 20200413–5058.
Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: ER20–1555–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: UFA Atlas Solar Project TOT870 SA No. 242 to be effective 4/14/2020.
Filed Date: 4/13/20.
Accession Number: 20200413–5080.
Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: ER20–1556–000.
Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 5624; Queue No. AE2–229 to be effective 3/16/2020.

Filed Date: 4/13/20.

Accession Number: 20200413–5083.

Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: ER20–1557–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of ISAs & ICSA SA Nos. 3598, 3599, 3600; Queue No. U2–041 to be effective 2/3/2020.

Filed Date: 4/13/20.

Accession Number: 20200413–5122.

Comments Due: 5 p.m. ET 5/4/20.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES20–20–000.

Applicants: Louisville Gas & Electric Company.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Louisville Gas and Electric Company.

Filed Date: 4/10/20.

Accession Number: 20200410–5195.

Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ES20–21–000.

Applicants: Kentucky Utilities Company.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Kentucky Utilities Company.

Filed Date: 4/10/20.

Accession Number: 20200410–5196.

Comments Due: 5 p.m. ET 5/1/20.

Docket Numbers: ES20–22–000.

Applicants: American Transmission Company LLC, ATC Management Inc.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of American Transmission Company LLC, et al.

Filed Date: 4/13/20.

Accession Number: 20200413–5136.

Comments Due: 5 p.m. ET 5/4/20.

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 13, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08153 Filed 4–16–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR20–11–000]

Sunoco Pipeline L.P.; Notice of Petition for Declaratory Order

Take notice that on April 3, 2020, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2019), Sunoco Pipeline L.P. (''Sunoco''), filed a declaratory order petition: (1) Seeking approval of the right of Sunoco to enter into new transportation services agreements for previously committed capacity on its Mariner West ethane pipeline, and (2) approving the tariff, rate structure and terms of such service, all as more fully explained in the petition.

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. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

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 the Federal Energy Regulatory Commission 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 May 1, 2020.

Dated: April 13, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–08183 Filed 4–16–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–1538–000]

RE Mustang Two Whirlaway, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced RE Mustang Two Whirlaway, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of

future issuances of securities and assumptions of liability, is May 4, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 13, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08152 Filed 4–16–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3273–024]

Chittenden Falls Hydropower, Inc.; Notice of Settlement Agreement, Soliciting Comments, and Modification of Procedural Schedule

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement.

b. *Project No.:* 3273–024.

c. *Date filed:* April 10, 2020.

d. *Applicant:* Chittenden Falls Hydropower, Inc. (Chittenden Falls Hydro).

e. *Name of Project:* Chittenden Falls Hydropower Project.

f. *Location:* On Kinderhook Creek, near the Town of Stockport, Columbia County, New York. The project does not occupy federal land.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Mark Boumansour, Chief Operating Officer, Gravity Renewables, Inc., 1401 Walnut Street, Suite 420, Boulder, CO 80302; (303) 440–3378; *mark@gravityrenewables.com* and/or Celeste N. Fay, Regulatory Manager, Gravity Renewables, Inc., 5 Dartmouth Drive, Suite 104, Auburn, NH 03032; (413) 262–9466; *celeste@gravityrenewables.com.*

i. *FERC Contact:* Monir Chowdhury at (202) 502–6736 or *monir.chowdhury@ferc.gov.*

j. *Deadline for filing comments:* Comments on the Settlement Agreement, and comments, recommendations, terms and conditions, and prescriptions in response to the Commission's February 21, 2020 Notice of Application Ready for Environmental Analysis (REA Notice) are due on Monday, May 4, 2020. Reply comments are due on Wednesday, June 17, 2020.

The Commission strongly encourages electronic filing. Please file comments 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/docs-filing/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).

The Commission's Rules of Practice 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. Chittenden Falls Hydro filed an Offer of Settlement (Settlement Agreement) on behalf of itself, the New York State Department of Environmental Conservation (New York DEC), and the United States Department of the Interior—Fish and Wildlife Service. The Settlement Agreement includes protection, mitigation, and enhancement measures addressing run-of-river operation and allowable impoundment fluctuations, a minimum bypassed reach flow, fish passage and protection for American eel, and by reference, management plans for northern long-eared bat and bald eagles (Appendix A), and invasive species (Appendix B). Chittenden Falls Hydro requests that the measures in the Settlement Agreement be incorporated as license conditions in any new license issued for the project. The signatories to the Settlement Agreement also request a 40-year license term for the project.

l. A copy of the Settlement Agreement is available for review on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support.

All filings must (1) bear in all capital letters the title ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. *Procedural Schedule:* The Commission's February 21, 2020 REA Notice established April 21, 2020 as the deadline for filing comments, recommendations, terms and conditions, and prescriptions regarding Chittenden Falls Hydro's license application. In order to allow adequate time for stakeholder comments regarding the license application and the Settlement Agreement, we have modified the comment period to allow

stakeholders to submit comments on the Settlement Agreement and comments, recommendations, terms and conditions, and prescriptions regarding the license application on the same date, and allow Chittenden Falls Hydro sufficient time to submit reply comments. The application will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Filing of comments, recommendations, terms and conditions, and prescriptions (per the REA Notice) and comments on the Settlement Agreement.	May 4, 2020.
Reply comments due	June 17, 2020.
Commission Issues EA	October 2020.
Comments on EA	November 2020.

Dated: April 13, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–08185 Filed 4–16–20; 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 Numbers: PR20–49–000.

Applicants: The East Ohio Gas Company.

Description: Tariff filing per 284.123(b),(e)/: Operating Statement of The East Ohio Gas Company 4/8/2020.

Filed Date: 4/8/2020.

Accession Number: 202004085101.

Comments/Protests Due: 5 p.m. ET 4/29/2020.

Docket Numbers: RP20–530–001.

Applicants: National Fuel Gas Supply Corporation.

Description: Compliance filing RP20–530 Fuel Tracker Compliance Filing to be effective 4/1/2020.

Filed Date: 4/9/20.

Accession Number: 20200409–5068.

Comments Due: 5 p.m. ET 4/21/20.

Docket Numbers: RP20–778–000.

Applicants: Dominion Energy Overthrust Pipeline, LLC.

Description: § 4(d) Rate Filing: Statement of Negotiated Rates Version 9.0.0 to be effective 5/9/2020.

Filed Date: 4/9/20.

Accession Number: 20200409–5060.

Comments Due: 5 p.m. ET 4/21/20.

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.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08154 Filed 4–16–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14856–002]

America First Hydro LLC; Notice of Application Tendered for Filing With the Commission

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 14856–002.

c. *Date Filed:* March 30, 2020.

d. *Applicant:* America First Hydro LLC (America First Hydro).

e. *Name of Project:* Lower Mousam Project.

f. *Location:* The project is located on the Mousam River in York County, Maine. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ian Clark, America First Hydro LLC; 65 Ellen Ave, Mahopac, New York 10541, (914) 297–7645, or email at *info@dichotomycapital.com.*

i. *FERC Contact:* Michael Watts, (202) 502–6123 or *michael.watts@ferc.gov.*

j. The application is not ready for environmental analysis at this time.

k. Kennebunk Light and Power District currently owns and holds a license to operate and maintain the Lower Mousam Project as FERC Project No. 5362. On March 29, 2017, Kennebunk Light and Power District filed a notice stating that it does not intend to file an application for a subsequent license. In response to a solicitation notice issued by the Commission on May 15, 2017, America First Hydro filed a pre-application document and a notice of intent to file an application for a license for the Lower Mousam Project, pursuant to 18 CFR 5.5 and 5.6. Commission staff assigned Project No. 14856 for the licensing proceeding initiated by America First Hydro's filing.

l. *Project Description:*

The existing Lower Mousam Project consists of the following three developments:

Dane Perkins Development

The Dane Perkins Development consists of: (1) A 12-foot-high, 83-foot-long concrete gravity dam with a 50-foot-long spillway section that has a crest elevation of 81.8 feet mean seal level (msl) plus 2.5-foot-high flashboards; (2) a 25-acre impoundment with a normal maximum elevation of 84.3 feet msl; (3) a powerhouse containing a single turbine-generator unit rated at 150 kilowatts (kW); (4) a generator lead connecting the turbine-generator unit to the regional grid; and (5) appurtenant facilities.

Twine Mill Development

The Twine Mill Development is located approximately 0.5 mile downstream from the Dane Perkins Development and consists of: (1) An 18-foot-high, 223-foot-long concrete gravity dam with an 81-foot-long spillway section that has a crest elevation of 68.8 feet msl plus 3.0-foot-high flashboards; (2) a 12-acre impoundment with a normal maximum elevation of 71.8 feet msl; (3) a powerhouse containing a single turbine-generator unit rated at 300 kW; (4) a generator lead connecting the turbine-generator unit to the

regional grid; and (5) appurtenant facilities.

Kesslen Development

The Kesslen Development is located approximately 2.5 miles downstream from the Twine Mill Development and consists of: (1) An 18-foot-high, 140-foot-long concrete gravity dam with a 114-foot-long spillway section that has a crest elevation of 42.2 feet msl plus 1.5-foot-high flashboards; (2) a 20-acre impoundment with a normal maximum elevation of 43.7 feet msl; (3) a powerhouse containing a single turbine-generator unit rated at 150 kW; (4) a generator lead connecting the turbine-generator unit to the regional grid; and (5) appurtenant facilities.

The current license requires an instantaneous minimum flow of 60 cubic feet per second (cfs) or inflow, whichever is less, downstream of the Kesslen Development from April 1 through June 1 each year; and a minimum flow of 5 cfs or inflow downstream of the Kesslen Development from June 2 through March 31. The licensee operates the project in a run-of-river mode on a voluntary basis.

America First Hydro proposes to increase the installed generation capacity at the Dane Perkins Development by replacing the existing 150-kW turbine-generator unit with two turbine-generator units that have a combined capacity of 270 kW. America First Hydro proposes to disconnect the generating equipment at the Kesslen Development and allow all flow to pass over the dam. America First Hydro also proposes to continue operating the project in a run-of-river mode.

m. *Locations of the Application:* A copy of the application may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

n. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. *Procedural Schedule:* On December 19, 2019, Commission staff suspended the Integrated Licensing Process for the project until America First Hydro filed the final license application. The suspension held the pre-filing process in abeyance, including the milestones for the study process. In accordance with 18 CFR 5.20, Commission staff will notify America First Hydro on or before April 29, 2020, as to whether or not the application substantially conforms to the pre-filing consultation and filing requirements of the Commission's regulations. To the extent that the application is not patently deficient, Commission staff will issue a revised process plan and schedule that includes milestones and dates for the filing and review of America First Hydro's outstanding study reports. After America First Hydro completes and files the outstanding study reports, Commission staff will issue a revised procedural schedule with target dates for the post-filing milestones listed below.

Milestone	Target date
Notice of Acceptance/Notice of Ready for Environmental Analysis.	TBD.
Filing of recommendations, preliminary terms and conditions, and fishway prescriptions.	TBD.
Commission issues Environmental Assessment (EA).	TBD.
Comments on EA	TBD.
Modified terms and conditions	TBD.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the Notice of Ready for Environmental Analysis.

Dated: April 13, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–08184 Filed 4–16–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–1537–000]

RE Mustang Two Barbaro LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced RE Mustang Two Barbaro LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 4, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 13, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08157 Filed 4–16–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9050–4]

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 April 6, 2020, 10 a.m. EST Through April 13, 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. 20200086, Final Supplement, NRC, VA, Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 6, Second Renewal, Regarding Subsequent License Renewal for Surry Power Station Units 1 and 2, Review Period Ends: 05/18/2020, Contact: Tam Tran 301–415–3617.

EIS No. 20200087, Draft, BLM, WY, Wyoming Pipeline Corridor Initiative Resource Management Plan Amendments/Environmental Impact Statement, Comment Period Ends: 07/16/2020, Contact: Heather Schultz 307–775–6084.

EIS No. 20200088, Final, USFS, BLM, CO, Browns Canyon National Monument Proposed Resource Management Plan, Review Period Ends: 05/18/2020, Contact: Joseph Vieira 719–246–9966.

Amended Notice

EIS No. 20200042, Draft Supplement, BLM, ID, Idaho Greater Sage-Grouse 2020 Draft Supplemental EIS, Comment Period Ends: 05/21/2020, Contact: Jon Beck 208–373–3841. Revision to FR Notice Published 2/21/2020; Extending the Comment Period from 4/6/2020 to 5/21/2020.

EIS No. 20200045, Draft Supplement, BLM, CO, Colorado Greater Sage-Grouse 2020 Draft Supplemental EIS, Comment Period Ends: 05/21/2020, Contact: Jon Beck 208–373–3841. Revision to FR Notice Published 2/21/2020; Extending the Comment Period from 4/6/2020 to 5/21/2020.

EIS No. 20200046, Draft Supplement, BLM, NV, Nevada/California Greater Sage-Grouse 2020 Draft Supplemental EIS, Comment Period Ends: 05/21/2020, Contact: Jon Beck 208–373–3841. Revision to FR Notice Published 2/21/2020; Extending the Comment Period from 4/6/2020 to 5/21/2020.

EIS No. 20200047, Draft Supplement, BLM, OR, Oregon Greater Sage-Grouse 2020 Draft Supplemental EIS, Comment Period Ends: 05/21/2020, Contact: Jon Beck 208–373–3841. Revision to FR Notice Published 2/21/2020; Extending the Comment Period from 4/6/2020 to 5/21/2020.

EIS No. 20200048, Draft Supplement, BLM, UT, Utah Greater Sage-Grouse 2020 Draft Supplemental EIS, Comment Period Ends: 05/21/2020, Contact: Jon Beck 208–373–3841. Revision to FR Notice Published 2/21/2020; Extending the Comment Period from 4/6/2020 to 5/21/2020.

EIS No. 20200049, Draft Supplement, BLM, WY, Wyoming Greater Sage-Grouse 2020 Draft Supplemental EIS, Comment Period Ends: 05/21/2020, Contact: Jon Beck 208–373–3841. Revision to FR Notice Published 2/21/2020; Extending the Comment Period from 4/6/2020 to 5/21/2020.

EIS No. 20200060, Draft, FHWA, VA, Route 220 Martinsville Southern Connector, Comment Period Ends: 05/15/2020, ≤Contact: Mack A Frost 804–775–3352. Revision to FR Notice Published 3/6/2020; Extending the Comment Period from 4/20/2020 to 5/15/2020.

Dated: April 14, 2020.

Cindy S. Barger,

Director, NEPA Compliance Division,Office of Federal Activities.

[FR Doc. 2020–08147 Filed 4–16–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2020–0060; FRL–10007–07]

Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations and Amend Registrations To Terminate Certain Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by the registrants to voluntarily cancel certain pesticide product registrations and to amend certain product registrations to terminate uses. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw their requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled and uses terminated only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before May 18, 2020.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2020–0060, 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 Confidential Business Information (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.

Submit written withdrawal request by mail to: Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. ATTN: Christopher Green.

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.*

FOR FURTHER INFORMATION CONTACT: Christopher Green, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since

others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the Agency taking?

This notice announces receipt by EPA of requests from registrants to cancel certain pesticide products and amend product registrations to terminate certain uses registered under FIFRA section 3 (7 U.S.C. 136a) or 24(c) (7 U.S.C. 136v(c)). The affected products and the registrants making the requests are identified in Tables 1–3 of this unit.

Unless a request is withdrawn by the registrant or if the Agency determines that there are substantive comments that warrant further review of this request, EPA intends to issue an order in the **Federal Register** canceling and amending the affected registrations.

TABLE 1—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Company No.	Product name	Active ingredients
264–612	264	Nortron E.C	Ethofumesate.
264–615	264	Nortron G.S	Ethofumesate.
279–3564	279	Tackle Herbicide	Glyphosate-isopropylammonium & Imazethapyr.
279–3570	279	Tackle II Herbicide	Glyphosate-isopropylammonium & Imazethapyr.
1258–1270	1258	Densil CA	Chlorothalonil & 1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
2693–170	2693	Fiberglass Bottomkote with Biolux II—Black	1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)- & Cuprous oxide.
2693–181	2693	Tri-Lux III with Bio-Lux 5490 Blue	Copper thiocyanate & 1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
2693–183	2693	Micron CSC Plus with Biolux Shark White	Cuprous oxide & 1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
2693–189	2693	Tri-Lux Blue	Copper thiocyanate & 1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
2693–199	2693	Trilux with Biolux Black	Copper thiocyanate & 1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
2693–202	2693	CSC Plus—Blue	Cuprous oxide & 1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
2693–204	2693	CSC Plus—Blue	Cuprous oxide & 1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
2693–208	2693	Fiberglass Bottomkote with Biolux—Blue	Cuprous oxide & 1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
2693–209	2693	Fiberglass Bottomkote Act with Biolux—Blue	1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)- & Cuprous oxide.
2693–213	2693	Super KL Plus with Irgarol—Blue	1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)- & Cuprous oxide.
2693–216	2693	Prop & Drive Clear Aerosol	1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)-.
2693–218	2693	Fiberglass Bottomkote Act with Biolux II—Black	1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)- & Cuprous oxide.
2693–224	2693	Micron Extra Blue	1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)- & Cuprous oxide.
2693–227	2693	Act—Blue	1,3,5-Triazine-2,4-diamine, N-cyclopropyl-N′-(1,1-dimethylethyl)-6-(methylthio)- & Cuprous oxide.
4170–100	4170	Oxyfect-G Peroxide Disinfectant Cleaner	Hydrogen peroxide.
4170–101	4170	Oxyfect-H Peroxide Disinfectant Cleaner	Hydrogen peroxide.
4822–510	4822	Vanish Drop-Ins	Trichloro-s-triazinetrione.
5185–401	5185	Bioguard Back-Up Algae Inhibitor	Alkyl* dimethyl benzyl ammonium chloride *(61% C12, 23% C14, 11% C16, 2.5% C18 2.5% C10 and trace of C8) & Alkyl* dimethyl benzyl ammonium chloride *(95%C14, 3%C12, 2%C16).
6836–211	6836	Bromchlor G	2,4-Imidazolidinedione, 1-bromo-3-chloro-5,5-dimethyl- & 1,3-Dibromo-5,5-dimethylhydantoin.
8730–49	8730	Hercon Insectape with Propoxur	Propoxur.
8730–77	8730	Hercon Disrupt Bio-Flake VBN	Verbenone.
10324–66	10324	Defend Quaternary Pine Oil	Pine oil; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride & 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
39398–4	39398	Sumithion Technical	Fenitrothion.

TABLE 1—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Company No.	Product name	Active ingredients
41750–1	41750	Awlgrip Awlstar Antifouling Gold Label Bp501 Light Blue.	Cuprous oxide.
41750–2	41750	Awlgrip Awlstar Antifouling Gold Label BP401 Medium Green.	Cuprous oxide.
60061–31	60061	Pettit Marine Paint Sea Mate Antifouling Bottom Paint.	Cuprous oxide.
60061–50	60061	Pettit Marine Paint Anti Fouling Trinidad 75 Red 1675.	Cuprous oxide.
60061–54	60061	Pettit Unepoxy Standard Antifouling Bottom Paint 1810 Black.	Cuprous oxide.
60061–58	60061	Pettit Unepoxy Antifouling Atlantic Formula	Cuprous oxide.
63310–8	63310	Rhizopon AA Water Soluble Tablets	Indole-3-butyric acid.
71368–45	71368	Blightban C9-1	Pantoea agglomerans strain C9–1.
73771–2	73771	Bloomtime Biological FD Biopesticide	Pantoea agglomerans strain E325; NRRL B–21856.
89442–38	89442	Mep-6X Select	Mepiquat chloride.
91234–176	91234	A275.01	Cyazofamid.
92044–5	92044	CAC Etoxazole Technical	Etoxazole.
AR–190002	87978	Heligen	Polyhedral occlusion bodies of Helicoverpa zea Nucleopolyhedrovirus ABA–NPV–U.

TABLE 1A—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Company No.	Product name	Active ingredients
432–893	432	Ronstar 50 WSP Herbicide	Oxadiazon.

The registrant of the product listed in Table 1A, of Unit II, has requested the effective date of December 31, 2020, for the cancellation.

TABLE 1B—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Company No.	Product name	Active ingredients
CA–040026	62719	Lorsban* 75WG	Chlorpyrifos.
CA–080009	62719	Lorsban Advanced	Chlorpyrifos.
CA–080010	62719	Lorsban Advanced	Chlorpyrifos.
CA–080011	62719	Lorsban Advanced	Chlorpyrifos.
CA–080012	62719	Lorsban Advanced	Chlorpyrifos.

The registrant of the products listed in Table 1B, of Unit II, has requested the effective date of December 31, 2019, for the cancellations.

TABLE 2—PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT

Registration No.	Company No.	Product name	Active ingredient	Uses to be terminated
8764–1	8764	Freshgard 25	o-Phenylphenol, sodium salt	Apples, cantaloupes, carrots, cherries, cucumbers, nectarines, peaches, peppers, pineapples, plums, sweet potatoes & tomatoes.
60063–7	60063	Echo 720	Chlorothalonil	Dried peas.
84229–40	84229	Amtide Tebuconazole Technical Fungicide.	Tebuconazole	Wood treatment.

Table 3 of this unit includes the names and addresses of record for all the registrants of the products listed in Tables 1, 1A, 1B and 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1, Table 1A, Table 1B and Table 2 of this unit.

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION AND/OR AMENDMENTS

EPA company No.	Company name and address
264	Bayer CropScience, LP., 800 N Lindbergh Blvd., St. Louis, MO 63167.
279	FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104.
432	Bayer Environmental Science, A Division of Bayer CropScience, LP., 5000 CentreGreen Way, Suite 400, Cary, NC 27513.
1258	Arch Chemicals, Inc., 1200 Bluegrass Lakes Parkway, Alpharetta, GA 30004.
2693	International Paint, LLC., 6001 Antoine Drive, Houston, TX 77091.
4170	Betco Corp. Ltd, d/ba Betco Corporation, 400 Van Camp Road, Bowling Green, OH 43402.
4822	S.C. Johnson & Son, Inc., 1525 Howe Street, Racine, WI 53403.
5185	Bio-Lab, Inc., P.O. Box 300002, Lawrenceville, GA 30049–1002.
6836	Lonza, LLC., 412 Mount Kemble Avenue, Suite 200S, Morristown, NJ 07960.
8730	Aberdeen Road Company, D/B/A Hercon Environmental, P.O. Box 435, Emigsville, PA 17318.
8764	John Bean Technologies Corporation, D/B/A JBT Foodtech, 1660 Iowa Ave., Suite 100, Riverside, CA 92507.
10324	Mason Chemical Company, 9075 Centre Pointe Dr., Suite 400, West Chester, OH 45069.
39398	Sumitomo Chemical America, Inc., Agent Name: Technology Sciences Group, Inc., 1150 18th Street NW, Suite 1000, Washington, DC 20036.
41750	International Paint, LLC., 6001 Antoine Drive, Houston, TX 77091.
60061	Kop-Coat, Inc., 36 Pine Street, Rockaway, NJ 07866.
60063	Sipcam Agro USA, Inc., 2525 Meridian Pkwy., Suite 350, Durham, NC 27713.
62719	Dow Agrosciences, LLC., 9330 Zionsville Rd., 308/2E, Indianapolis, IN 46268–1054.
63310	Hortus USA Corp, P.O. Box 1956, Old Chelsea Station, New York, NY 10113.
71368	NuFarm, Inc., Agent Name: NuFarm Americas, Inc., 4020 Aerial Center Pkwy., Suite 101, Morrisville, NC 27560.
73771	Verdesian Life Sciences U.S., LLC., Division Name: D/B/A Verdesian Life Sciences, 1001 Winstead Drive, Suite 480, Cary, NC 27513.
84229	Tide International, USA, Inc., Agent Name: Pyxis Regulatory Consulting, Inc., 4110 136th Street Ct. NW, Gig Harbor, WA 98332.
87978	Agbitech Pty Ltd., Agent Name: Forster & Associates Consulting, LLC., P.O. Box 4097, Greenville, DE 19807.
89442	Prime Source, LLC., Agent Name: Wagner Regulatory Associates, Inc., P.O. Box 640, 7217 Lancaster Pike, Suite A, Hockessin, DE 19707.
91234	Atticus, LLC., Agent Name: Pyxis Regulatory Consulting, Inc. 4110 136th Street Ct. NW, Gig Harbor, WA 98332–9122.
92044	CAC Chemical Americas, LLC., Agent Name: Pyxis Regulatory Consulting, Inc., 4110 136th St. Ct. NW, Gig Harbor, WA 98332.

III. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) (7 U.S.C. 136d(f)(1)(C)) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period.

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants listed in Table 3 of Unit II have requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 30-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Requests

Registrants who choose to withdraw a request for product cancellation or use termination should submit the withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation or termination action, the effective date of cancellation or termination and all other provisions of any earlier cancellation or termination action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the action. If the requests for voluntary cancellation and amendments to terminate uses are granted, the Agency intends to publish the cancellation order in the **Federal Register**.

In any order issued in response to these requests for cancellation of product registrations and for amendments to terminate uses, EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 1, Table 1A and Table 1B of Unit II.

A. For Product 10324–66

For product 10324–66, listed in Table 1 of Unit II, the registrant has requested 18-months to sell existing stocks. The registrant will be permitted to sell and distribute existing stocks of the product for 18-months after the effective date of the cancellation, which will be the date of publication of the cancellation order in the **Federal Register**. Thereafter, the registrant will be prohibited from selling or distributing the product, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

B. For Product 432–893

For product 432–893, listed in Table 1A of Unit II, the registrant has requested the cancellation date to be December 31, 2020; therefore, the registrant will be permitted to sell and distribute existing stocks of the voluntarily canceled product for 1 year after the effective date of the cancellation, which will be until December 31, 2021. Thereafter, the registrant will be prohibited from selling or distributing the product, except for

export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

C. For Products CA–040026, CA–080009, CA–080010, CA–080011 & CA–080012

For products CA–040026, CA–080009, CA–080010, CA–080011 and CA–080012, listed in Table 1B of Unit II, the registrant has requested the cancellation date to be December 31, 2019; therefore, the registrant will be permitted to sell and distribute existing stocks of voluntarily canceled products for 1 year after the effective date of the cancellation, which will be until December 31, 2020. Thereafter, the registrant will be prohibited from selling or distributing these products, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

For all other voluntary product cancellations, identified in Table 1 of Unit II, registrants will be permitted to sell and distribute existing stocks of voluntarily canceled products for 1 year after the effective date of the cancellation, which will be the date of publication of the cancellation order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing all other products identified in Table 1 of Unit II, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Once EPA has approved product labels reflecting the requested amendments to terminate uses, identified in Table 2 of Unit II, registrants will be permitted to sell or distribute products under the previously approved labeling for a period of 18-months after the date of **Federal Register** publication of the cancellation order, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the terminated uses identified in Table 2 of Unit II, except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products and products whose labels include the terminated uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products and terminated uses.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 23, 2020.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2020–08073 Filed 4–16–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0798 and OMB 3060–0800; FRS 16667]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before May 18, 2020.

ADDRESSES: Comments should be sent 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. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0798.

Title: FCC Application for Radio Service Authorization; Wireless Telecommunications Bureau; Public Safety and Homeland Security Bureau.

Form Number: FCC Form 601.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals and households; Business or other for-profit entities; Not-for-profit institutions; and State, local or tribal governments.

Number of Respondents and Responses: 255,452 respondents and 255,452 responses.

Estimated Time per Response: 0.5–1.25 hours.

Frequency of Response: Recordkeeping requirement, third party disclosure requirement, on occasion reporting requirement and periodic reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C., 151, 152, 154, 154(i), 155(c), 157, 201, 202, 208, 214, 301, 302a, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 331, 332, 333, 336, 534, 535 and 554.

Total Annual Burden: 223,921 hours.

Total Annual Cost: $71,906,000.

Privacy Impact Assessment: Yes.

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information.

Needs and Uses: FCC Form 601 is a consolidated, multi-part application form that is used for market-based and site-based licensing for wireless telecommunications services, including public safety licenses, which are filed through the Commission's Universal Licensing System (ULS). FCC Form 601 is composed of a main form that contains administrative information and a series of schedules used for filing technical and other information. This form is used to apply for a new license, to amend or withdraw a pending application, to modify or renew an existing license, cancel a license, request a duplicate license, submit required notifications, request an extension of time to satisfy construction requirements, or request an administrative update to an existing license (such as mailing address change), request a Special Temporary Authority or Developmental License. Respondents are encouraged to submit FCC Form 601 electronically and are required to do so when submitting FCC Form 601 to apply for an authorization for which the applicant was the winning bidder in a spectrum auction.

The data collected on FCC Form 601 includes the FCC Registration Number (FRN), which serves as a ''common link'' for all filings an entity has with the FCC. The Debt Collection Improvement Act of 1996 requires entities filing with the Commission to use an FRN.

On August 3, 2017, the Commission released the WRS Reform Second Report and Order in which it consolidated the hodgepodge of service-specific renewal and permanent discontinuance rules into consolidated Part 1 rules, 1.949 and 1.953, respectively (See Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 17–105, (WRS Reform Second Report and Order)). Of relevance to the information collection at issue here, the Commission established a consistent standard for renewing wireless licenses and set forth safe harbors providing expedited renewal for licensees that meet their initial term construction requirement and remain operating at or above that level. In addition, the Commission adopted consistent service continuity rules, which provide for automatic termination of any license on which a licensee permanently discontinues service or operation.

The Commission now seeks approval for revisions to its currently approved collection of information under OMB Control Number 3060–0798 to permit (1) the collection of renewal-related information for Wireless Radio Service (WRS) licenses, and (2) the filing of requests to extend a permanent discontinuance period for good cause. Regarding renewal of WRS licenses, § 1.949(d) of the Commission's rules requires an applicant for renewal of certain WRS licenses to meet the Renewal Standard, *i.e.,* the applicant must demonstrate that over the course of the license term, the licensee provided and continues to provide service to the public, or operated and continues to operate the license to meet the licensee(s)' private, internal communications needs. A renewal applicant can meet the Renewal Standard by certifying compliance with one of the safe harbors enumerated in § 1.949(e) of the Commission's rules, or, if the applicant cannot satisfy the requirements of one of the safe harbors, the applicant must make a Renewal Showing consistent with § 1.949(f). In addition, a renewal applicant must make a Regulatory Compliance Certification certifying that it has substantially complied with all applicable FCC rules, policies, and the Communications Act of 1934, as amended. If an applicant is unable to make this substantial compliance certification, it will need to provide an explanation of the circumstances preventing such a certification and why renewal of the subject license should still be granted.

We do not anticipate that these revisions will have any impact on the burden to complete FCC Form 601. The renewal process remains virtually unchanged for site-based licensees, which will continue to have streamlined processes for renewal under the safe harbors adopted in the WRS Reform Second Report and Order. For licensees which had to make renewal showings under the Commissions' prior, service-specific renewal rules, including 700 MHz Commercial Services, 600 MHz Service, H-Block Service, AWS–3, AWS–4, and 218–219 MHz Service, the rules now provide for streamlined renewal processes under the safe harbor provisions in § 1.949(e), which minimize the burdens on such licensees. The Commission expects that most licensees will be able to avail themselves of the streamlined safe harbor process. Although some licensees will be required to make a renewal showing, on balance, we believe there will be no increase in the overall annual burden to complete the form. Further, the Commission's experience with requests to extend the discontinuance period for licensees in the cellular service leads us to anticipate few, if any, such requests will be filed under our new rules. Specifically, we are unaware of any requests to extend a cellular discontinuance period. Thus, we believe there will be a negligible, if any, impact on the annual burden to complete the form.

The Commission therefore seeks approval for a revision to its currently approved information collection on FCC Form 601 to revise FCC Form 601 accordingly.

In addition, on August 10, 2015, the Commission released a Report and Order in Amendment of Sections 90.20(d) and 90.265 of the Commission's Rules to Facilitate the Use of Vehicular Repeater Units, FCC 15–103, in which it decided to adopt certain changes to the rules governing six remote control and telemetry channels in the VHF band. The Commission decided to allow the licensing and operation of vehicular repeater systems (VRS) and other mobile repeaters on these channels. In addition, the Commission revises and updated the technical rules for these channels to allow greater use of VRS systems while providing protection for incumbent telemetry users who rely on these frequencies for control of critical infrastructure systems. Of significance for this collection, the Commission also decided that the only way to accommodate both telemetry and VRS on these frequencies is through frequency coordination to both ensure geographic separation as well as minimizing the risk of commingling

voice and data operations. In particular, the Commission adopted new section 90.175(b)(4), which prescribes the obligations of frequency coordinators and the ability of applicants to submit written concurrences from potentially affected incumbent licensees as part of the Form 601 filing. On December 11, 2015, the Commission adopted a Clarification Order in this docket, but that order made two changes to the requirements of section 90.175(b)(4).

Sections 90.35, 90.20, and 90.175(b)(4) require third party disclosures by applicants proposing to operate vehicular repeater units on designated frequencies. They are required to obtain written concurrence of a frequency coordinator. This information will be used by Commission personnel in evaluating the applicant's need for such frequencies and to minimize the interference potential to other stations operating on the proposed frequencies.

OMB Control Number: 3060–0800.

Title: FCC Application for Assignments of Authorization and Transfers of Control: Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau.

Form Number: FCC Form 603.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, Individuals or households, not-for-profit institutions, and State, Local or Tribal Governments.

Number of Respondents and Responses: 2,547 respondents; 2,547 responses.

Estimated Time per Response: 0.5 hours–1.75 hours.

Frequency of Response: Recordkeeping requirement, on occasion reporting requirement and periodic reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154, 155, 158, 161, 301, 303(r), 308, 309, 310 and 332.

Total Annual Burden: 2,872 hours.

Annual Cost Burden: $381,975.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information.

Needs and Uses: FCC Form 603 is a multi-purpose form that is used by radio services in Wireless Services within the Universal Licensing System (ULS). FCC 603 is composed of a main form that contains the administrative information and a series of schedules used for filing technical information. These schedules are required when applying for Auctioned Services, Partitioning and Disaggregation, Undefined Geographical Area Partitioning, and Notification of Consummation or Request for Extension of Time for Consummation. Applicants/licensees in the Public Mobile Services, Personal Communications Services, Private Land Mobile Radio Services, Broadband Radio Service, Educational Broadband Service, Maritime Services (excluding Ship), and Aviation Services (excluding Aircraft) use FCC Form 603 to apply for an assignment or transfer, to establish their parties' basic eligibility and qualifications, to classify the filing, and/or to determine the nature of the proposed service. This form is also used to notify the FCC of consummated assignments and transfers of wireless licenses to which the Commission has previously consented or for which notification but not prior consent is required. Respondents are encouraged to submit FCC 603 electronically.

The data collected on FCC 603 include the FCC Registration Number (FRN), which serves as a ''common link'' for all filings an entity has with the FCC. The Debt Collection Improvement Act of 1996 required that those filing with the Commission to use an FRN, effective December 3, 2001.

Records may include information about individuals or households, *e.g.,* personally identifiable information or PII, and the use(s) and disclosure of this information are governed by the requirements of a system of records notice or 'SORN', FCC/WTB–1, ''Wireless Services Licensing Records.'' There are no additional impacts under the Privacy Act.

On August 3, 2017, the Commission released the WRS Reform Second Report and Order in which it consolidated the hodgepodge of service-specific geographic partitioning and spectrum disaggregation rules into a consolidated Part 1 rule, 1.950 (See Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 17–105, (WRS Reform Second Report and Order)). Of relevance to the information collection at issue here, the Commission required that when portions of geographic licenses are sold, both parties to the transaction have a clear construction obligation and penalty in the event of failure.

Specifically, § 1.950(c) requires parties seeking approval for geographic partitioning, spectrum disaggregation, or a combination of both must apply for a partial assignment of authorization by filing FCC Form 603 pursuant to § 1.948 of the Commission's rules. Each request for geographic partitioning must include an attachment defining the perimeter of the partitioned area by geographic coordinates to the nearest second of latitude and longitude, based upon the 1983 North American Datum (NAD83). Alternatively, applicants may specify an FCC-recognized service area (*e.g.,* Basic Trading Area, Economic Area, Major Trading Area, Metropolitan Service Area, or Rural Service Area), county, or county equivalent, in which case, applicants need only list the specific FCC-recognized service area, county, or county equivalent names comprising the partitioned area. Additionally, applicants have the option to submit geographic data associated with applications to partition and/or disaggregate their license using a shapefile, KML or Geojson file format.

In addition, § 1.950(d) requires applicants for geographic partitioning, spectrum disaggregation, or a combination of both, to include, if applicable, a certification with their partial assignment of authorization application stating which party will meet any incumbent relocation requirements, except as otherwise stated in service-specific rules. Further, § 1.950(g) provides parties to geographic partitioning, spectrum disaggregation, or a combination of both, with two options to satisfy service-specific performance requirements (*i.e.,* construction and operation requirements). Under the first option, each party may certify that it will individually satisfy any service-specific requirements and, upon failure, must individually face any service-specific performance penalties. Under the second option, both parties may agree to share responsibility for any service-specific requirements. Upon failure to meet their shared service-specific performance requirements, both parties will be subject to any service-specific penalties. The Commission seeks approval for revisions to its currently approved collection of information under OMB Control Number 3060–0800 to permit the collection of the additional information in connection with partial assignments of authorizations for geographic partitioning, spectrum disaggregation, or a combination of both, pursuant to the rules and information collection requirements adopted by the Commission in the WRS Reform Second Report and Order. We do not anticipate that these revisions will impact the collection filing burden.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

[FR Doc. 2020–08094 Filed 4–16–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0027, 3060–0652 and OMB 3060–0932; FRS 16669]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before May 18, 2020.

ADDRESSES: Comments should be sent 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. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control No.: 3060–0027.

Title: Application for Construction Permit for Commercial Broadcast Station, FCC Form 301; Form 2100, Schedule A—Application for Media Bureau Video Service Authorization; 47 Sections 73.3700(b)(1) and (b)(2) and Section 73.3800, Post Auction Licensing; Form 2100, Schedule 301–FM—Commercial FM Station Construction Permit Application.

Form No.: FCC Form 2100, Schedule A, FCC Form 301, FCC Form 2100, Schedule 301–FM.

Type of Review: Extension of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 3,090 respondents and 6,526 responses.

Estimated Time per Response: 1–6.25 hours.

Frequency of Response: One-time reporting requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 15,317 hours.

Annual Cost Burden: $62,444,288.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: FCC Form 301 is used to apply for authority to construct a new commercial AM or FM broadcast station and to make changes to existing facilities of such a station. It may be used to request a change of a station's community of license by AM and non-reserved band FM permittees and licensees. In addition, FM licensees or permittees may request, by filing an application on FCC Form 301, upgrades on adjacent and co-channels, modifications to adjacent channels of the same class, and downgrades to adjacent channels. All applicants using this one-step process must demonstrate that a suitable site exists that would comply with allotment standards with respect to minimum distance separation and principal community coverage and that would be suitable for tower construction. For applicants seeking a community of license change through this one-step process, the proposed facility must be mutually exclusive with the applicant's existing facility, and the new facility must comply with the Commission's standards with respect to minimum distance separation and principal community coverage. Applicants availing themselves of this procedure must also attach an exhibit demonstrating that the proposed community of license change comports with the fair, efficient, and equitable distribution of radio service, pursuant to Section 307(b) of the Communications Act of 1934, as amended (the Act).

FCC Form 301 also accommodates commercial FM applicants applying in a Threshold Qualifications Window (TQ

Window) for a Tribal Allotment. A commercial FM applicant applying in the TQ Window, who was not the original proponent of the Tribal Allotment at the rulemaking stage, must demonstrate that it would have qualified in all respects to add that particular Tribal Allotment for which it is applying. Additionally, a petitioner seeking to add a new Tribal Allotment to the FM Table of Allotments must file Form 301 when submitting its Petition for Rulemaking. The collection also accommodates applicants applying in a TQ Window for a Tribal Allotment that had been added to the FM Table of Allotments using the Tribal Priority under the ''threshold qualifications'' procedures.

Similarly, to receive authorization for commencement of Digital Television (DTV) operations, commercial broadcast licensees must file FCC Form 2100, Schedule A for a construction permit. The application may be filed any time after receiving the initial DTV allotment and before mid-point in the applicant's construction period. The Commission will consider the application as a minor change in facilities. Applicants do not have to provide full legal or financial qualifications information.

In the first phase of the ''Licensing and Management System'' roll-out, Form 2100, Schedule A replaced FCC Form 301 only for the filing of full-service digital television construction permits. Subsequently, the Commission received OMB approval for FM Auxiliary Stations to transition from CDBS to LMS using Form 2100, Schedule 301–FM. FCC Form 301 is still being used through CDBS to apply for authority to construct a new full-service commercial AM or FM commercial broadcast station and to make changes to the existing facilities of such stations.

This collection also includes the third-party disclosure requirement of 47 CFR 73.3580. This rule requires applicants to provide local public notice, in a newspaper of general circulation published in a community in which a station is located, of requests for new or major changes in facilities and for changes of a station's community of license by AM and non-reserved band FM permittees and licensees. The local notice must be completed within 30 days of tendering the application and must be published at least twice a week for two consecutive weeks in a three-week period. A copy of the notice and the application must be placed in the station's public inspection file, pursuant to Section 73.3526.

OMB Control Number: 3060–0652.

Title: Section 76.309, Customer Service Obligations; Section 76.1602, Customer Service-General Information, Section 76.1603, Customer Service-Rate and Service Changes and Section 76.1619, Information and Subscriber Bills.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, Local or Tribal Government.

Number of Respondents and Responses: 4,113 respondents; 1,109,246 responses.

Estimated Time per Response: 0.0166 to 1 hour.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 4(i) and 632 of the Communications Act of 1934, as amended.

Total Annual Burden: 41,796 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The Commission requires that the various disclosure and notifications contained in this collection as a means of consumer protection to ensure that subscribers and franchising authorities are aware of cable operators' business practices, current rates, rate changes for programming, service and equipment, and channel line-up changes. Permitting the use of email modernizes the Commission's rules regarding notices required to be provided by MVPDs.

OMB Control No.: 3060–0932.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule E (Former FCC Form 301–CA); 47 CFR Sections 73.3700(b)(1)(i)–(v) and (vii), (b)(2)(i) and (ii); 47 CFR Section 74.793(d).

Form No.: FCC Form 2100, Schedule E (Application for Media Bureau Audio and Video Service Authorization) (Former FCC Form 301–CA).

Type of Review: Extension of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 745 respondents and 745 responses.

Estimated Time per Response: 2.25 hours–6 hours (for a total of 8.25 hours).

Frequency of Response: One-time reporting requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 157 and 309(j) as amended; Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act) and the Community Broadcasters Protection Act of 1999.

Total Annual Burden: 6,146 hours.

Annual Cost Burden: $4,035,550.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: FCC Form 2100, Schedule E (formerly FCC Form 301–CA) is to be used in all cases by a Class A television station licensees seeking to make changes in the authorized facilities of such station. FCC Form 2100, Schedule E requires applicants to certify compliance with certain statutory and regulatory requirements. Detailed instructions on the FCC Form 2100, Schedule E provide additional information regarding Commission rules and policies. FCC Form 2100, Schedule E is presented primarily in a ''Yes/No'' certification format. However, it contains appropriate places for submitting explanations and exhibits where necessary or appropriate. Each certification constitutes a material representation. Applicants may only mark the ''Yes'' certification when they are certain that the response is correct. A ''No'' response is required if the applicant is requesting a waiver of a pertinent rule and/or policy, or where the applicant is uncertain that the application fully satisfies the pertinent rule and/or policy. FCC Form 2100, Schedule E filings made to implement post-auction channel changes will be considered minor change applications.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

[FR Doc. 2020–08083 Filed 4–16–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0912; FRS 16665]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before June 16, 2020. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA of 1995 (44 U.S.C. 3501–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0912.

Title: Sections 76.501, 76.503 and 76.504, Cable Attribution Rules.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 40 respondents; 40 responses.

Estimated Time per Response: 1 to 4 hours.

Obligation to Respond: On occasion reporting requirements.

Total Annual Burden: 100 hours.

Total Annual Costs: No costs.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 4(i) and 613(f) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: The information collection requirements contained in this collection are as follows: 47 CFR 76.501 Notes 2(f)(1) and 2(f)(3); 47 CFR 76.503 Note 2(b)(3); 47 CFR 76.504 Note 1(b)(1) requires limited partners, Registered Limited Liability Partnerships (''RLLPs''), and Limited Liability Companies (''LLCs'') attempting to insulate themselves from attribution to file a certification of ''non-involvement'' with the Commission. LLCs who submit the non-involvement certification are also required to submit a statement certifying that the relevant state statute authorizing LLCs permits an LLC member to insulate itself in the manner required by our criteria.

The information collection requirements contained in Sections 76.501 Note 2, 76.503 Note 2, and 76.504 Note 1, also provide that officers and directors of an entity are considered to have a cognizable interest in the entity with which they are associated. If any such entity engages in businesses in addition to its primary media business, it may request the Commission to waive attribution for any officer or director whose duties and responsibilities are wholly unrelated to its primary business. The officers and directors of a parent company of a media entity with an attributable interest in any such subsidiary entity shall be deemed to have a cognizable interest in the subsidiary unless the duties and responsibilities of the officer or director involved are wholly unrelated to the media subsidiary and a statement properly documenting this fact is submitted to the Commission. This statement may be included on the Licensee Qualification Report.

The information collection requirements contained in 47 CFR 76.503 Note 2(b)(1) include a requirement for limited partners who are not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership to certify that fact or be attributed to a limited partnership interest.

The information collection requirements contained in 47 CFR 76.503(g) state ''Prior to acquiring additional multichannel video-programming providers, any cable operator that serves 20% or more of multichannel video-programming subscribers nationwide licenses at issue in the acquisition, that no violation of the national subscriber limits prescribed in this section will occur as a result of such acquisition.''

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

[FR Doc. 2020–08099 Filed 4–16–20; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the

assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than May 19, 2020.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23219. Comments can also be sent electronically to or *Comments.applications@rich.frb.org:*

1. *Farmers and Merchants Bancshares, Inc., Hampstead, Maryland;* to acquire Carroll Bancorp, Inc., and thereby indirectly acquire Carroll Community Bank, both of Sykesville, Maryland.

B. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Koda Bancor, Inc., Drayton, North Dakota;* to acquire Wall Street Holding Company and thereby indirectly acquire Bank of Hamilton, both of Hamilton, North Dakota.

2. *Waumandee Bancshares, Ltd., Waumandee, Wisconsin;* to acquire Union Bank of Blair, Blair, Wisconsin.

C. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Nicolet Bankshares, Inc., Green Bay, Wisconsin;* to merge with Commerce Financial Holdings, Inc., and thereby indirectly acquire Commerce State Bank, both of West Bend, Wisconsin.

Board of Governors of the Federal Reserve System, April 14, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–08187 Filed 4–16–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[30Day-20–0057]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Agency for Toxic Substances and Disease Registry (ATSDR) has submitted the information collection request titled ''APPLETREE Performance Measures'' to the Office of Management and Budget (OMB) for review and approval. ATSDR previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on December 23, 2019, to obtain comments from the public and affected agencies. ATSDR did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

ATSDR will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

APPLETREE Performance Measures (OMB Control No. 0923–0057, Exp. 07/31/2020)—Revision—Agency for Toxic Substances and Disease Registry (ATSDR).

Background and Brief Description

The Agency for Toxic Substances and Disease Registry (ATSDR) seeks to build and sustain the capacity to evaluate exposures to hazardous waste across the country. Releases from hazardous waste sites are a major source of harmful exposures in homes, schools, workplaces, and communities. These exposures are often complex and may be difficult to identify and control. Hazardous waste sites may involve various toxic substances, exposure pathways, and health impacts. ATSDR's primary goal is to keep communities safe from harmful exposures and related diseases. To accomplish this goal, the agency works closely with partnering agencies to evaluate exposures at hazardous waste sites, educate communities, and seek new ways to better protect public health.

ATSDR's Partnership to Promote Local Efforts to Reduce Environmental Exposure (APPLETREE) Program is critical to ATSDR's success in accomplishing its mission in communities nationwide. ATSDR's recipients will use APPLETREE funding to advance ATSDR's primary goal of keeping communities safe from harmful environmental exposures and related diseases. APPLETREE gives recipients the resources to build their capacity to assess and respond to site-specific issues involving human exposure to hazardous substances in the environment. APPLETREE helps recipients identify exposure pathways at specific sites; educate affected communities about site contamination and potential health effects; make recommendations to prevent exposure; review health outcome data to evaluate potential links between site contaminants and community health outcomes. APPLETREE facilitates the implementation of state-level programs to ensure that potential early care and education facilities are in areas free from harmful environmental exposures. It also encourages recipients in the

innovation of progressive public health interventions that prevent exposures to environmental contamination. Because of APPLETREE recipients' local connections and partnerships, community engagement and implementation of recommendations is improved. This program is authorized under Sections 104(i)(15) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986 [42 U.S.C. 9604(i)(15)].

Under the next three-year APPLETREE cooperative agreement (NOFO No. CDC–RFA–TS20–2001), eligible applicants include federally recognized American Indian/Alaska Native tribal governments; American Indian/Alaska native tribally designated organizations; political subdivisions of states (in consultation with states); and state and local governments or their bona fide agents. ATSDR technical project officers (TPOs) will assist 28 APPLETREE recipients to address site-specific issues involving human exposure to hazardous substances. Key capacities include identification of human exposure pathways at ATSDR sites, education of affected communities and local health professionals about site contamination and potential health effects; making appropriate recommendations to prevent exposure; reviewing health outcome data to evaluate potential links between site contaminants and community health; and documenting the effects of environmental remediation on health.

This is a revision information collection request (ICR) titled ''APPLETREE Performance Measures,'' previously approved under OMB Control No. 0923–0057 (expiration date 07/31/2020). ATSDR will continue to collect information related to recipient activities, and the process and outcome performance measures outlined by the cooperative agreement program. Information will be used to monitor progress toward program goals and objectives, and for program quality improvement. The first five forms were previously approved by OMB. The first three forms, formerly reported in SharePoint, will be migrated to a new information technology (IT) system called ATSDR's Request Management Service System (ARMSS).

1. *ATSDR Health Education Activity Tracking (HEAT) Form:* For each environmental health assessment and health education activity conducted at ATSDR sites, APPLETREE Recipients shall quantitatively assess and report efforts to educate community members about site recommendations and health risks using indicators to assess community understanding of site findings about health risks and community understanding of agency recommendations to reduce health risks. This information will be entered in to the ATSDR HEAT system for each activity at ATSDR sites.

2. *ATSDR Technical Assistance (TA) Activity Form:* Throughout the budget year, this form will be used to record the routine requests made of the recipients and their program responses. These responses do not evaluate environmental data and do not make health calls, but they are monitored by ATSDR as part of the recipients' performance.

3. *ATSDR Site Impact Assessment (SIA) Form:* For each environmental health assessment and health education activity conducted at ATSDR sites, recipients shall estimate and report the number of people protected from exposure to toxic substances at each site where implementation of agency recommendations has taken place and at each child care center where safe siting guidelines have been implemented. To the extent possible, recipients shall estimate and report the disease burden prevented due to the implementation of site recommendations and safe siting guidelines.

Recipients will continue to submit the following form to ATSDR via SharePoint:

4. *ATSDR Success Story Form:* Recipients will provide one success story per quarter (four success stories total per year) that highlights an impact of any of their programs. Recipients will report a brief summary, background, intervention/action taken, and accomplishment/impact for each story. Optionally, they may include a photo or quote.

Recipients will submit the following five forms to ATSDR via email. As part of the revision request, the last four forms are new.

5. *APPLETREE Annual Performance Report (APR) Template:* Recipients will continue to provide an APR each year and at the end of the funding cycle, which summarizes their annual and funding cycle performances, respectively. APRs will be due in December of each year to coincide with the CDC Grants Management annual reports to reduce overall reporting burden and the final report will be due at the end of the funding cycle. The purpose of the performance reports will be to assess Partners based on performance measures and evaluation projects. The reports should include a summary of performance measures, results of any evaluation projects, accompanying narrative of progress and interpretation of results, optional successes, challenges, and updated work plan. These reports will be entered into a Microsoft Word form.

6. *Choose Safe Places for Early Care and Education (CSPECE) Qualitative Narrative Form:* Recipients will now provide a narrative report of their CSPECE Programs to document descriptive details of their state's landscape, program plan, program implementation, and results that cannot be captured through numbers. Recipients will complete and submit the narrative once a year as a supplement with their APRs in a Microsoft Word form.

7. *CSPECE Quantitative Form:* Recipients will also now provide data on their CSPECE Programs to quantify aspects of their program such as children reached, target audiences screened, and recommendations implemented. To supplement their APRs, recipients will complete and submit a Microsoft Excel form once a year as a supplement with their APRs.

In addition to the required annual reporting, at the end of the three-year program, each recipient will report cumulative three-year performance measures for three forms: The APR, the CSPECE Qualitative Narrative Form, and the CSPECE Quantitative Form. This will result in four total responses in a three-year period for each form. The estimated annualized number of required responses is thus rounded to once per year for these three forms, as four hours divided by three years equals 1.33 hours per year.

8. *ATSDR SoilSHOP Form:* SoilSHOPs are not a required activity; however, if conducted, a recipient will need to complete the ATSDR SoilSHOP Form in Word. This form gathers data on the inputs, activities, outputs, and outcomes of the event, such as the number of soil samples screened, number of elevated soil samples, number of individuals receiving health consultations, and number of individuals receiving referrals. The form should be provided back to ATSDR via email within two weeks of the SoilSHOP completion.

9. *ATSDR Recommendation Follow-up Form:* For each environmental health assessment, recipients will provide an update on the status of acceptance and implementation of all recommendations to understand whether and how recommendations have been implemented, and the subsequent impact on communities. Recipients will complete a Microsoft Excel reporting form annually on the anniversary date

of the release of each health assessment. Initially recipients will provide to ATSDR via email, but the form will be migrated into the ARMSS system in the future.

ATSDR is seeking a three-year Paperwork Reduction Act (PRA) clearance for this revision information collection request. The total annual time burden requested is 267 hours. This reflects a reduction in requested time burden compared to the 272 hours previously approved in 2017. This revision also requests approval for an increase in the annual number of responses from 1,575 in 2017, to 1,886 in this current request. ATSDR will fund 28 recipients, an increase of three additional awards over the previous program. Recipient reporting is required to receive funding under the APPLETREE cooperative agreement.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
APPLETREE Recipients	ATSDR Health Education Activity Tracking (HEAT)Form	28	37	3/60
	ATSDR Technical Assistance (TA)Activity Form	28	15	5/60
	ATSDR Site Impact Assessment (SIA)Form	28	4	7/60
	ATSDR Success Story Form	28	4	30/60
	APPLETREE Annual Performance Report(APR) Template	28	1	2
	Choose Safe Places for Early Care and Education (CSPECE) Qualitative Narrative Form.	28	1	1
	CSPECE Quantitative Form	28	1	15/60
	ATSDR SoilSHOP Form	10	1	7/60
	ATSDR Recommendation Follow-up Form	28	4	10/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–08168 Filed 4–16–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–20–0278]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled, National Hospital Ambulatory Medical Care Survey (NHAMCS) to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on January 28, 2020 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

National Hospital Ambulatory Medical Care Survey (NHAMCS) (OMB Control No. 0920–0278, Exp. 06/30/2021)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on ''utilization of health care'' in the United States. The National Hospital Ambulatory Medical Care Survey (NHAMCS) has been conducted annually since 1992. NCHS is seeking OMB approval to extend this survey for an additional three years.

The target universe of the NHAMCS is in-person visits made to emergency departments (EDs) of non-Federal, short-stay hospitals (hospitals with an average length of stay of less than 30 days) that have at least 6 beds for inpatient use, and with a specialty of general (medical or surgical) or children's general. NHAMCS was initiated to complement the National Ambulatory Medical Care Survey (NAMCS, OMB No. 0920–0234, Exp. Date 05/31/2022), which provides similar data concerning patient visits to physicians' offices. NAMCS and NHAMCS are the principal sources of data on ambulatory care provided in the United States.

NHAMCS provides a range of baseline data on the characteristics of the users and providers of hospital ambulatory medical care. Data collected include patients' demographic characteristics, reason(s) for visit, providers' diagnoses, diagnostic services, medications, and disposition. These data, together with trend data, may be used to monitor the effects of change in the health care system, for the planning of health services, improving medical education, determining health care work force needs, and assessing the health status of the population.

Starting 2018, NHAMCS was modified to assess only hospital emergency departments. The survey components that assessed hospital outpatient departments and ambulatory surgery locations were discontinued. Users of NHAMCS data include, but are not limited to, congressional offices, Federal agencies, state and local governments, schools of public health, colleges and universities, private industry, nonprofit foundations, professional associations, clinicians, researchers, administrators, and health planners.

The burden is to complete the 2020 data collection which is currently underway and collect data over the following three years (2021–2023) without change to the current survey activities. However, starting with 2021 data collection, the Assurance of Confidentiality statement will be updated to the new citation for the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) language. There are no costs to the respondents other than their time. The total estimated annualized burden hours are 1,500. The adjusted increase of 712 burden hours is due to the new method of calculating burden to include all sampled hospitals.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Hospital Chief Executive Officer	Hospital Induction Data Collection	547	1	30/60
Ancillary Service Executive	Ambulatory Unit Induction Data Collection	1,093	1	15/60
Medical Record Clerk	Retrieving Patient Records	547	100	1/60
Ancillary Service Executive	Telephone Reinterview	167	1	15/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–08166 Filed 4–16–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2020–0029]

Management of Acute and Chronic Pain: Request for Comment

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Request for comment.

SUMMARY: The Centers for Disease Control and Prevention (CDC) in the Department of Health and Human Services (HHS) announces the opening of a docket to obtain comment concerning perspectives on and experiences with pain and pain management, including but not limited to the benefits and harms of opioid use, from patients with acute or chronic pain, patients' family members and/or caregivers, and health care providers who care for patients with pain or conditions that can complicate pain management (*e.g.,* opioid use disorder or overdose)—hereafter called ''stakeholders.'' CDC will use these comments to inform its understanding of stakeholders' values and preferences related to pain and pain management options.

DATES: Written comments must be received on or before June 16, 2020.

ADDRESSES: Submit written comments, identified by Docket No. CDC–2020–0029 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Shannon Lee, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop S106–9, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *http://regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Shannon Lee, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop S106–9, Atlanta, Georgia 30329, 404–498–3290, *InjuryCenterEngage@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data related to perspectives on and experiences with pain and pain management. CDC invites comments specifically on topics focused on using or prescribing opioid pain medications, non-opioid medications, or non-pharmacological treatments (*e.g.,* exercise therapy or cognitive behavioral therapy). These topics are as follows:

- Experiences managing pain, which might include the benefits, risks, and/or harms of the pain management options listed above.
- Experiences choosing among the pain management options listed above, including considering factors such as each option's accessibility, cost, benefits, and/or risks.
- Experiences getting information needed to make pain management decisions.

Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on *https://www.regulations.gov.* Therefore, do not include any information in your comment or supporting materials that you consider confidential, proprietary, or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such

as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. CDC will carefully consider all comments submitted.

Background

Public comment will help CDC's understanding of stakeholders' values and preferences regarding pain management and will complement CDC's ongoing work assessing the need for updating or expanding the CDC Guideline for Prescribing Opioids for Chronic Pain, published in 2016 (available in the Supporting Materials tab of the docket and at: *https://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm*). Please note that HHS/CDC is also planning opportunities for stakeholder engagements and conversations on these topics. These have been postponed because of COVID–19 but will be announced in a future **Federal Register** Notice when they are rescheduled.

More information about CDC's assessment of the need for updating or expanding the Guideline and the establishment of a federal advisory committee workgroup to provide expert input and observations to CDC on the possible Guideline update or expansion is available at *https://www.cdc.gov/injury/bsc/opioid-workgroup-2019.html.* If the Guideline is updated or expanded, CDC would request public comment on the draft document through a notice in the **Federal Register** prior to final publication.

Anyone who would like to receive information related to CDC's ongoing work specific to drug overdose prevention (including the ongoing response to the opioid overdose epidemic) as well as other updates (*e.g.,* pertaining to resources and tools) may sign up at *www.cdc.gov/emailupdates* and select topics of interest. Available offerings include:

- Subscription Topics: Injury, Violence & Safety
- Subtopic: Drug Overdose News

Dated: April 14, 2020.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2020–08127 Filed 4–16–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–20–0607]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''The National Violent Death Reporting System (NVDRS)'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on October 22, 2019 to obtain comments from the public and affected agencies. CDC received two anonymous non-substantive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

The National Violent Death Reporting System (NVDRS) (OMB Control No. 0920–0607, Exp. 11/30/2020)—Revision — National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Violence is a public health problem. The World Health Organization has estimated that 804,000 suicides and 475,000 homicides occurred in the year 2012 worldwide. Violence in the United States is a particular problem for the young; suicide and homicide were among the top four leading causes of death for Americans 10–34 and 1–34 years of age in 2015, respectively. In 2002 Congress approved the first appropriation to start the National Violent Death Reporting System (NVDRS). NVDRS is coordinated and funded at the federal level but is dependent on separate data collection efforts managed by the state health department (or their bona fide agent) in each state.

NVDRS, implemented by the Centers for Disease Control and Prevention (CDC), is a state-based surveillance system developed to monitor the occurrence of violent deaths (*i.e.,* homicide, suicide, undetermined deaths, and unintentional firearm deaths) in the United States (U.S.) by collecting comprehensive, detailed, useful, and timely data from multiple sources (*e.g.,* death certificates, coroner/medical examiner reports, law enforcement reports) into a useable, anonymous database. NVDRS is an ongoing surveillance system that captures annual violent death counts and circumstances that precipitate each violent incident. Data on violent death is defined as a death resulting from the intentional use of physical force or power (*e.g.,* threats or intimidation) against oneself, another person, or against a group or community. CDC aggregates de-identified data from each state into one large national database that is analyzed and released in annual reports and publications. Descriptive analyses such as frequencies and rates are employed. A restricted access

database is available for researchers to request access to NVDRS data for analysis and a web-based query system is open for public use that allows for electronic querying of data. NVDRS generates public health surveillance information at the national, state, and local levels that is more detailed, useful, and timely. Government, state and local communities have used NVDRS data to develop and evaluate prevention programs and strategies. NVDRS is also used to understand magnitude, trends, and characteristics of violent death and what factors protect people or put them at risk for experiencing violence.

Since 2004 and throughout 2017, CDC has received OMB approval for NVDRS. This is a revision request for an additional three years to (1) implement updates to the web-based system to improve performance, functionality, and accessibility, (2) add new data elements to the system and minimal revisions to the NVDRS coding manual. In 2018, the NVDRS expanded by adding 10 new states and now all 50 states, the District of Columbia, and Puerto Rico participate in the system. Each state, District of Columbia, and U.S. territory (referred to hereinafter as ''states'') is funded to abstract standard data elements from three primary data sources: Death certificates, coroner/medical examiner records, and law enforcement records into a web-based data entry system, supplied by CDC. This is an ongoing surveillance system that captures annual violent death counts and circumstances that precipitate each violent incident. CDC aggregates de-identified data from each state into one national database that is analyzed and released in annual reports and other publications. Descriptive analyses such as frequencies and rates will be employed. A restricted access database is available for researchers to request access to NVDRS data for analysis and a web-based query system is open for public use that allows for electronic querying of data. The estimated annual burden hours are 36,540. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Total number of responses per respondent	Average burden per response (in hours)
Public Agencies	Web-based Data Entry	56	1,305	30/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–08169 Filed 4–16–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–20–1290; Docket No. CDC–2020–0038]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled National Healthcare Safety Network (NHSN) Patient Module for Coronavirus (COVID–19) Surveillance in Healthcare Facilities. Two modules will be added within NHSN to capture the daily, aggregate impact of COVID–19 on healthcare facilities and monitor medical capacity to respond at local, state, and national levels.

DATES: CDC must receive written comments on or before June 16, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0038 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

*Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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 submissions of responses.

5. Assess information collection costs.

Proposed Project

National Healthcare Safety Network (NHSN) Patient Impact Module for Coronavirus (COVID–19) Surveillance in Healthcare Facilities—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Division of Healthcare Quality Promotion (DHQP), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC) collects data from healthcare facilities in the National Healthcare Safety Network (NHSN) under OMB Control Number 0920–0666. NHSN is a public health surveillance system that collects, analyzes, reports, and makes available data for monitoring, measuring, and responding to healthcare associated infections (HAIs), antimicrobial use and resistance, blood transfusion safety events, and the extent to which healthcare facilities adhere to infection prevention practices and antimicrobial stewardship.

On March 11, 2020, the World Health Organization declared COVID–19 a pandemic, and the President of the United States (U.S.) proclaimed the outbreak a national emergency on March 13, 2020. As rates of infection continue to rise across the U.S., healthcare facilities and public health departments are facing significant strain on patient care and infection prevention efforts. NHSN plans to introduce a new COVID–19 module in the Patient Safety Component that will enable hospitals to report daily COVID–19 patient counts to NHSN, and NHSN in turn will enable state and local health departments to gain immediate access to the COVID–19 data for hospitals in their jurisdiction.

NHSN's role as a shared platform for HAI surveillance provides a valuable foundation for COVID–19 surveillance. A very large number of the nation's hospitals participate in NHSN, and infection preventionists (IPs) in those hospitals already use NHSN for surveillance and reporting. Hospitals' IPs will voluntarily report COVID–19 patient surveillance data to NHSN by manual entry or by uploading a comma separated values (CSV) file. State and local health departments will be able to gain immediate access to this data reported by facilities in their jurisdictions via existing NHSN groups.

This information will be used to inform the overall real-time COVID–19 response efforts and possible resource allocation, including an understanding of cases that are community-acquired versus healthcare-associated. CDC and health departments alike will use this surveillance data to prioritize the allocation of resources and response efforts. Metrics collected in NHSN will include:

- Number of and proportion of hospitalized patients with suspected or confirmed COVID–19
- Number of and proportion of hospitalized patients with suspected or confirmed COVID–19 that are on mechanical ventilators
- Number of patients with suspected or confirmed COVID–19 who are in the emergency department (ED) or any overflow locations awaiting an inpatient bed
- Number of and proportion of inpatient COVID–19 patients with suspected or confirmed COVID–19 with onset 14 or more days after hospitalization (most likely healthcare-associated)
- Proportion of inpatient beds occupied by those who are suspected or confirmed with COVID–19 (or proportion of inpatients who are suspected or confirmed with COVID–19)

There will be no cost to respondents other than their time to complete the COVID–19 Patient Impact Module Form on a daily basis, for 180 days. The estimated annualized time burden is 292,500 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Microbiologist	COVID–19 Patient Impact Module Form.	3,900	180	25/60	292,500
Total					292,500

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–08170 Filed 4–16–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–20–0841]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled [Management Information System for Comprehensive Cancer Control Programs] to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on November 4, 2019 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Management Information Systems for Comprehensive Cancer Control Programs (OMB Control No. 0920–0841, Exp. 6/30/2019)—Reinstatement with Change—National Center for Chronic Disease and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In 2017, 66 awardees, representing all 50 states, the District of Columbia, seven United States Association Pacific Islands and territories, and eight tribes and tribal organizations, were selected for funding under NOFO (DP17–1701, ''Cancer Prevention and Control Programs for State, Territorial, and Tribal Organizations''). Under this cooperative agreement, awardees implement cancer prevention and control programs to reduce cancer morbidity, mortality, and disparities. To facilitate program monitoring, performance assessment, and evaluation, a web-based management information system (MIS) is needed for collection and abstraction of information about program resources, partnerships, work plan activities, and evaluation efforts. Information collection is organized into eight areas (MIS tabs): (1) FOA & Recipients; (2) Program Information; (3) Resources; (4) Leadership Team; (5) Financial; (6) Planning; (7) Action Plan; and (8) Reports. The Leadership Team tab is new. CDC conducted user acceptability testing of the leadership team tab data elements which allowed for an accurate estimate of burden per response. All information collected by CDC will be analyzed and used in aggregate to describe program efforts.

OMB approval is requested for three years, which coincides with the last three years of the program. All awardees will submit information to CDC annually. Participation is required as a condition of funding under the cooperative agreement. The estimated burden per response is one hour and the total estimated annualized burden is 66 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Program Director for State- Tribal-, or Territorial- based Cancer Prevention and Control Program.	Data Elements for All CPC Programs: Annual Reporting.	66	1	1

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–08164 Filed 4–16–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–0907]

Medical Device User Fee Amendments for Fiscal Years 2023 Through 2027; Public Meeting; Request for Comments; Postponement

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; postponed.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the public meeting entitled ''Medical Device User Fee Amendments for Fiscal Years 2023 Through 2027; Public Meeting; Request for Comments'' that was scheduled in the **Federal Register** on April 3, 2020, to take place on May 5, 2020, is postponed until further notice.

DATES: The public meeting will be rescheduled for a future date. Information about the rescheduled meeting will be provided when available. Submit either electronic or written comments on the medical device user fee program and suggestions regarding the commitments FDA should propose for the next reauthorized program.

FOR FURTHER INFORMATION CONTACT: Ellen Olson, Center for Devices and Radiological Health, Food and Drug Administration, Bldg. 66, Rm. 1664, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–4322, *ellen.olson@fda.hhs.gov* or *CDRH-OPEQ-StrategicInitiatives@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The public meeting entitled ''Medical Device User Fee Amendments for Fiscal Years 2023 Through 2027; Public Meeting; Request for Comments'' was originally announced in the **Federal Register** of March 6, 2020 (85 FR 13165), and was initially scheduled for April 7, 2020. On April 3, 2020, the meeting was postponed to May 5, 2020, and was planned to take place by webcast only due to extenuating circumstances (85 FR 18992). FDA continues to evaluate whether and how to proceed with upcoming scheduled meetings while our day-to-day operations are impacted by the COVID–19 public health emergency, and we have decided to

postpone this public meeting until further notice. Information on the rescheduled meeting will be provided in the future when available. The web page for the ''Medical Device User Fee Amendments for Fiscal Years 2023 Through 2027; Public Meeting'' is available at *https://www.fda.gov/medical-devices/workshops-conferences-medical-devices/2020-medical-device-meetings-and-workshops.* Interested persons may continue to submit comments on the medical device user fee program and suggestions regarding the commitments FDA should propose for the next reauthorized program to the public docket.

Dated: April 14, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–08167 Filed 4–16–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Information Collection Request Title: Advanced Nursing Education Workforce, OMB No. 0915–0375 Extension

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR have been provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30 day comment period for this Notice has closed.

DATES: Comments on this ICR should be received no later than May 18, 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.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION: *Information Collection Request Title:* Advanced Nursing Education Workforce Program-Specific Data Collection Forms, OMB No. 0915–0375 Extension.

Abstract: HRSA provides advanced education nursing training grants to educational institutions to increase the numbers of advanced education nurses through the Advanced Nursing Education Workforce (ANEW) Program. The ANEW Program is authorized by Section 811 of the Public Health Service Act (42 U.S.C. 296j), as amended. This request is to extend the use of ANEW Program Specific forms, specifically Tables #1 and #2. There are no proposed changes to these tables. ANEW Table #1 collects information on the types of practice settings where graduates, who received ANEW support as students, are currently employed. The data on graduates' employment practice settings demonstrate the distribution of specialties, *i.e.,* nurse practitioners, clinical nurse specialists and nurse midwives, who are practicing in rural, underserved, public health nursing, and Health Professional Shortage Areas (HPSA) practice settings. ANEW Table #2 requests information on the projected number of primary care advanced practice registered nursing student enrollees/trainees who will receive traineeship support for each upcoming budget year over the entire project period. This data provides a baseline for comparison to data collected on the numbers of students/enrollees/trainees supported that are reported on the Annual Performance Reports.

A 60-day notice published in the **Federal Register** on January 22, 2020, vol. 85, No. 14; pp. 3697–3698. There were no public comments.

Need and Proposed Use of the Information: ANEW Program-Specific Table #1 captures data on the number of graduates of the academic partner applicant who received HRSA support and are currently employed in rural areas, undeserved areas, public health nursing, and HPSA practice settings. The graduate data collected measure the impact of the ANEW Program in meeting the legislative and program goals. ANEW Program-Specific Table #2 collects information on the projected number of students/enrollees to receive traineeship support each budget year of the project period and provides a baseline for student/enrollee support that is reported in the Annual Performance Reports. Collecting this data assists HRSA in carrying out the most impactful program and ensuring resources are used responsibly.

Likely Respondents: Likely respondents will be current ANEW awardees, who will submit the data tables as part of a Noncompeting Continuation progress report, and applicants for the ANEW program, including schools of nursing, nursing centers, academic health centers, state or local governments, and other public or private nonprofit entities determined appropriate by the Secretary that are accredited to carry out primary care nurse practitioner and nurse midwifery programs by a national nurse education accrediting agency recognized by the Secretary of the U.S. Department of Education. The school must be located in one of the 50 U.S. States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, the U.S. Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
ANEW Application including the ANEW Program Specific Tables and Attachments	236	1	236	7	1,652
Total	236		236		1,652

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–08126 Filed 4–16–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Practitioner Data Bank Temporary Waiver of User Fees for Eligible Entities

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: Pursuant to its authority under federal regulations for the National Practitioner Data Bank (NPDB), HRSA's Division of Practitioner Data Bank announces a temporary waiver of user fees for NPDB queries from March 1, 2020, through May 31, 2020, to support our eligible entities in making credentialing, hiring, privileging, and licensing decisions in combatting the COVID–19 pandemic. The waiver includes all one-time queries and continuous queries during the waiver time period. Fees for self-queries will not be waived. The NPDB is a confidential information clearinghouse created by Congress and is intended to facilitate a comprehensive review of the professional credentials of health care practitioners, entities, providers, and suppliers. In response to President Trump's declaration of a national emergency and associated emergency declarations by all states, the federal government, state governments, and many health care entities have taken unprecedented steps regarding licensure portability and the deployment of health workforce resources, including the expansion of telemedicine and granting of disaster privileges. HRSA's NPDB is in a unique position to temporarily waive fees, granting NPDB access to the nation's hospitals, health centers, health plans, state licensing boards, federal agencies, and other eligible health care entities in support of their efforts to mobilize and appropriately deploy health workforce professionals.

DATES: The NPDB waiver is effective immediately, but will have retroactive effect to March 1, 2020, and will remain in effect through May 31, 2020.

FOR FURTHER INFORMATION CONTACT: David Loewenstein, Director, Division of Practitioner Data Bank, Bureau of Health Workforce, HRSA, (301) 443–2300, *NPDBPolicy@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The NPDB will waive fees retroactively from March 1, 2020, through May 31, 2020, for eligible entity queries (one-time query and continuous query). The NPDB will not refund the cost of queries performed, but can issue query credits to reimburse entities for one-time and continuous queries performed beginning March 1, 2020. Regulations regarding the NPDB are codified at 45 CFR part 60.

Thomas J. Engels,

Administrator.

[FR Doc. 2020–08080 Filed 4–16–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the National Advisory Council on Nurse Education and Practice

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice; correction.

SUMMARY: The National Advisory Council on Nurse Education and Practice (NACNEP) meeting scheduled for Tuesday, May 12, 2020, and Wednesday, May 13, 2020, has changed its format, date, and time. The meeting will now be a one-day webinar and conference call only on Tuesday, May 12, 2020, from 9:00 a.m.–4:30 p.m. Eastern Standard Time. The decision to adjust the NACNEP meeting has been made after carefully examining the Centers for Disease Control and Prevention's recommendations to restrict all non-essential travel, and the widespread health risks posed by COVID–19 to the American public. The webinar link, conference number, meeting materials, and updates for the May 12, 2020, meeting will be available on the NACNEP website: *https://www.hrsa.gov/advisory-committees/nursing/meetings.html.*

FOR FURTHER INFORMATION CONTACT: Camillus Ezeike, Ph.D., LL.M. J.D., RN, PMP, Designated Federal Official, NACNEP, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, Rockville, Maryland 20857; 301–443–2886; or *BHWNACNEP@hrsa.gov.*

Correction [Meeting will be a one-day webinar and conference call only, rather than two-days and in-person as previously announced].

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–08142 Filed 4–16–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Infectious Diseases and Microbiology.

Date: April 22, 2020.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Tamara Lyn McNealy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, Bethesda, MD 20892, 301–827–2372, *tamara.mcnealy@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 Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 13, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08090 Filed 4–16–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Environmental Influences on Child Health Outcomes Institutional Development Award-eligible States Pediatric Clinical Trials Network.

Date: April 24, 2020.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, 301–594–3163, *champoum@csr.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 Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 13, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–08089 Filed 4–16–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–ES–2019–N164; FF09E41000 190 FXES111609C0000; OMB Control Number 1018–New]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Policy Regarding Voluntary Prelisting Conservation Actions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing a new information collection in use without an OMB Control Number.

DATES: Interested persons are invited to submit comments on or before May 18, 2020.

ADDRESSES: Send written comments on this information collection request to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number ''1018–VPCA'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On August 9, 2019, we published in the **Federal Register** (84 FR 39362) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on October 8, 2019. We did not receive any comments in response to that notice.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency 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 response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your that your entire comment—including your personal identifying information—may be 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.

Abstract: The Service is charged with implementing the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). The goal of the Act is to provide a means to conserve the ecosystems upon which listed species depend and a program for listed species conservation. Through our Candidate Conservation program, we encourage the public to take conservation actions for species prior to them being listed under the Act. Doing so may result in precluding the need to list a species, may result in listing a species as threatened instead of endangered, or, if a species becomes listed, may provide the basis for its recovery and eventual removal from the protections of the Act.

This policy gives landowners, government agencies, and others incentives to carry out voluntary conservation actions for unlisted species. It allows the use of any benefits to the species from voluntary conservation actions undertaken prior to listing under the Act—by the person who undertook such actions or by third parties—to mitigate or offset the detrimental effects of other actions undertaken after listing. The policy requires participating States to track the voluntary conservation actions and provide this information to us on an annual basis. We require this information in order to provide the entities that have taken the conservation actions with proper credit that can later be used to mitigate for any detrimental actions they take after the species is listed.

We plan to collect the following information:

- Description of the prelisting conservation action being taken.
- Location of the action (does not include a specific address).
- Name of the entity taking the action and their contact information (email address only).
- Frequency of the action (ongoing for X years, or one-time implementation) and an indication if the action is included in a State Wildlife Action Plan.
- Any transfer to a third party of the mitigation or compensatory measure rights.

Each State that chooses to participate will collect this information from landowners, businesses and organizations, and Tribal and local governments that wish to receive credit for voluntary prelisting conservation actions. States may collect this information via an Access database, Excel spreadsheet, or other database of their choosing and submit the information to the Fish and Wildlife Service (via email) annually. States will use this information to calculate the number of credits that the entity taking the conservation action will receive and will keep track of the credits and notify the entity of how much credit they have earned. The States will report the number of credits to the Service, and we will determine how many credits are needed by the entity to mitigate or offset the detrimental effects of other actions they take after the species is listed (assuming it is listed).

Title of Collection: Policy Regarding Voluntary Prelisting Conservation Actions.

OMB Control Number: 1018–New.

Form Number: None.

Type of Review: Existing collection in use without an OMB Control Number.

Respondents/Affected Public: Individuals; businesses and organizations; and State, local, and Tribal governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for new submissions, ongoing for recordkeeping requirements, and annually for reporting requirements.

Total Estimated Annual Nonhour Burden Cost: None.

Requirement	Annual number of respondents	Average number of responses each	Annual number of responses	Average completion time per response (hours)	Estimated annual burden hours *
State Developed Voluntary Conservation-Action Program:					
Individuals	0	0	0	0	0
Private Sector	0	0	0	0	0
Government	1	1	1	320	320
Development of Conservation Strategy:					
Individuals	0	0	0	0	0
Private Sector	0	0	0	0	0
Government	1	1	1	200	200
Amendments to Conservation Strategy:					
Individuals	0	0	0	0	0
Private Sector	0	0	0	0	0
Government	1	1	1	16	16
Credit Agreement/Transfer of Credits:					
Individuals	0	0	0	0	0
Private Sector	0	0	0	0	0
Government	1	1	1	80	80
Annual Reports:					
Individuals	0	0	0	0	0
Private Sector	0	0	0	0	0
Government	1	1	1	20	20
State Recordkeeping Requirements:					
Individuals	0	0	0	0	0
Private Sector	0	0	0	0	0
Government	1	1	1	240	240
State Reports—Voluntary Prelisting Conservation Actions Taken Under Program:					
Individuals	0	0	0	0	0
Private Sector	0	0	0	0	0
Government	1	1	1	.25	0
Site-Level Agreements:					
Individuals	0	0	0	0	0

Requirement	Annual number of respondents	Average number of responses each	Annual number of responses	Average completion time per response (hours)	Estimated annual burden hours *
Private Sector	0	0	0	0	0
Government	1	1	1	100	100
Formal Agreements:					
Individuals	0	0	0	0	0
Private Sector	0	0	0	0	0
Government	1	1	1	4	4
Monitoring Reports:					
Individuals	0	0	0	0	0
Private Sector	0	0	0	0	0
Government	1	1	1	24	24
Site-Level Reports:					
Individuals	0	0	0	0	0
Private Sector	0	0	0	0	0
Government	1	1	1	24	24
Management Plans:					
Individuals	0	0	0	0	0
Private Sector	0	0	0	0	0
Government	1	1	1	120	120
Totals:	*12*		*12*		*1,148*

* Rounded to match ROCIS.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: April 14, 2020.

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2020–08121 Filed 4–16–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–NWRS–2019–N052; FXRS126109HD000–189–FF09R23000; OMB Control Number 1018–New]

Agency Information Collection Activities; Programmatic Clearance for U.S. Fish and Wildlife Service Social Science Research

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before June 16, 2020.

ADDRESSES: Send your comments on the information collection request by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–New in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency 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 response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. 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.

Abstract: Improving customer experience with Federal services is part of the President's Management Agenda (OMB Circular A–11, Section 280, ''Managing Customer Experience and Improving Service Delivery''). The

collection of information is necessary to enable the Service to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. Additionally, this new programmatic clearance is needed in order to be more responsive to Secretarial Orders 3355 (National Environmental Policy Act), 3356 (hunting and fishing opportunities), 3362 (big game habitat), and 3366 (outdoor recreation). This proposed new collection of information will also allow the Service to improve customer service delivery and response. This is important because OMB Circular A–11 designates the Service as a High-Impact Service Provider.

The programmatic clearance applies to social science surveys, interviews, and focus groups designed to provide information to Service managers and practitioners to improve quality and utility of agency programs, services, and planning efforts. To ensure continuous improvement, Service activities and projects require ongoing systematic assessment of their design, implementation, and outcomes. Data from collections undertaken through the proposed programmatic clearance would provide information for planning, monitoring, and evaluating National Wildlife Refuge System efforts as well as efforts of other Service programs. The scope of this programmatic clearance includes individual surveys, focus groups, and interviews of refuge visitors, potential visitors, and residents of communities near Service–managed units, and stakeholders and partners, including tribal interests.

To qualify for the generic programmatic review process, survey questions must show a clear tie to Service management needs. The programmatic review may only be used for noncontroversial information collections that are unlikely to attract or include topics of significant public interest. We must obtain OMB approval of all surveys developed using the pre-approved suite of questions before the survey can be initiated. This suite of questions will be used to develop customer experience and satisfaction surveys to meet requirements of OMB Circular A–11 as well as commitments to respond to the above-named Secretarial Orders.

Title of Collection: Programmatic Clearance for U.S. Fish and Wildlife Service Social Science Research.

OMB Control Number: 1018–New.

Form Number: None.

Type of Review: New.

Respondents/Affected Public: Persons visiting units managed by the Service; potential visitors, including ''virtual visitors'' who access content from a Service website; local community members; educators taking part in programs both on and off Service lands; government officials representing the local area; landowners; partners; stakeholders; and tribal interests.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

Mode	Annual estimates		
	Number of respondents	Completion time per response (avg. minutes)	Burden hours **
On-site, mail, internet surveys *	22,366	20	7,455
Telephone surveys	916	25	382
All non-response surveys	862	5	72
Focus groups/In-person interviews	65	60	65
Annual Total	24,209	—	7,974
3 Year Total	72,627	.....	23,922

* Includes 2-minute contact time for some surveys, interviews, focus groups, and approximately 2,500 electronic surveys.
** All figures are rounded.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: April 14, 2020.

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2020–08119 Filed 4–16–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX20LR000F60100; OMB Control Number 1028–0070]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Consolidated Consumers' Report

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing to renew an Information Collection.

DATES: Interested persons are invited to submit comments on or before May 18, 2020.

ADDRESSES: Send your comments on this Information Collection Request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0070 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Elizabeth S. Sangine by email at *escottsangine@usgs.gov,* or by

telephone at 703–648–7720. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on October 30, 2019, 84 FR 58171. We did not receive any public comments in response to that notice.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comments addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you 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.

Abstract: Respondents to this form supply the USGS with domestic consumption data for 12 metals and ferroalloys, some of which are considered strategic and critical, to assist in determining Defense National Stockpile Center goals. These data and derived information will be published as chapters in Minerals Yearbooks, monthly Mineral Industry Surveys, annual Mineral Commodity Summaries, and special publications, for use by Government agencies, industry education programs, and the general public.

Title of Collection: Consolidated Consumers' Report.

OMB Control Number: 1028–0070.

Form Number: USGS Form 9–4117–MA.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Business or Other-For-Profit Institutions: U.S. nonfuel minerals producers.

Total Estimated Number of Annual Respondents: 241.

Total Estimated Number of Annual Responses: 1,275.

Estimated Completion Time per Response: 45 minutes.

Total Estimated Number of Annual Burden Hours: 956.

Respondent's Obligation: Voluntary.

Frequency of Collection: Some Annually, some Monthly.

Total Estimated Annual Nonhour Burden Cost: There are no ''nonhour cost'' burdens associated with this IC.

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 authorities for this action are the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*), the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1601 *et seq.*), the National Mining and Minerals Policy Act of 1970 (30 U.S.C. 21(a)), and the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 *et seq.*).

Michael Magyar,

USGS Associate Director, National Minerals Information Center.

[FR Doc. 2020–08112 Filed 4–16–20; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[201A2100DD/AAKC001030/A0A51010.999900]

Land Acquisitions; the Grand Traverse Band of Ottawa and Chippewa Indians, Michigan

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Assistant Secretary—Indian Affairs has made a final determination to acquire 160.55 acres, more or less, of land in Acme Township, Grand Traverse County, Michigan into trust for the Grand Traverse Band of Ottawa and Chippewa Indians (''Tribe'') for non-gaming purposes.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene M. Round Face, Division of Real Estate Services, Office of Trust Services, Bureau of Indian Affairs, *Sharlene.roundface@bia.gov,* telephone (505) 563–3132.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by chapter 8, part 209 of the Departmental Manual, and is published to comply with the requirement of 25 CFR 151.12(c)(2)(ii) that notice of the decision to acquire land in trust be promptly published in the **Federal Register**.

On March 31, 2020, the Assistant Secretary—Indian Affairs issued a decision to accept Parcel 88 in trust for the Tribe under the authority of Section 5 of the Indian Reorganization Act of 1934 (48 Stat. 94).

The Department of Interior will immediately acquire title to Parcel 88 in the name of the United States in trust for the Tribe upon fulfillment of Department requirements.

Legal Description

Grand Traverse Band of Ottawa and Chippewa Indians, Acme Township, Grand Traverse County, Michigan, Legal Description Containing 160.55 Acres, More or Less

Parcel 88

That part of the Northeast Fractional One-Quarter and part of the East One-Half of the Northwest Fractional One-Quarter of Section 2, Town 27 North, Range 10 West, Acme Township, Grand Traverse County, Michigan, more fully described as:

Commencing at the Northeast Corner of said Section 2, thence South 00°19′33″ East, 1238.74 feet, along the East Line of said Section, to the POINT OF BEGINNING;

thence continuing South 00°19′33″ East, 1231.35 feet, along said East Section Line, to the East and West One-Quarter line of said Section 2;

thence North 87°12′31″ West, 1,303.71 feet, along said One-Quarter line;

thence North 00°34′18″ West, 497.61 feet, to the Northerly line of the South 30 acres of the Southeast One-Quarter of the Northwest Fractional One-Quarter and the Southwest One-Quarter of the Northeast Fractional One-Quarter of said Section 2;

thence North 87°12′31″ West, 2,630.09 feet, along said Northerly line, to the West One-Eighth line of said Section 2;

thence North 00°32′56″ West, 842.21 feet, along said One-Eighth line;

thence South 87°08′51″ East, 214.88 feet;

thence North 00°32′56″ West, 1050.75 feet, parallel to and 13 rods East of said West One-Eighth line, to the Southerly Right-of-Way of State Highway M–72;

thence along said Southerly Right-of-Way the following fifteen (15) courses;

thence South 87°56′03″ East, 98.68 feet;
thence Southeasterly, 656.97 feet, along the arc of a 57170.78 foot radius curve to the right, the central angle of which is 00°39′30″ and the long chord of which bears South 87°35′43″ East, 656.97 feet;
thence North 02°43′59″ East, 50.00 feet;
thence Southeasterly, 381.31 feet, along the arc of a 57175.09 foot radius curve to the right, the central angle of which is 00°22′56″ and the long chord of which bears South 87°04′30″ East, 381.31 feet;
thence South 41°44′32″ East, 197.74 feet;
thence Southeasterly, 166.38 feet, along the arc of a 57080.78 foot radius curve to the right, the central angle of which is 00°10′01″ and the long chord of which bears South 86°39′39″ East, 166.38 feet;
thence North 47°24′34″ East, 125.00 feet;
thence Southeasterly, 303.34 feet, along the arc of a 57170.78 foot radius curve to the right, the central angle of which is 00°18′14″ and the long chord of which bears South 86°20′18″ East, 303.34 feet;
thence North 03°48′47″ East, 25.00 feet;
thence Southeasterly, 252.15 feet, along the arc of a 57195.78 foot radius curve to the right, the central angle of which is 00°15′09″ and the long chord of which bears South 86°03′36″ East, 252.15 feet;
thence South 85°56′01″ East, 247.54 feet;
thence South 04°03′59″ West, 5.00 feet;
thence South 85°56′01″ East, 40.00 feet;
thence North 04°03′59″ East, 5.08 feet;
thence South 85°56′01″ East, 273.58 feet;
thence Southeasterly, 743.68 feet, along the arc of a 34477.47 foot radius curve to the left, the central angle of which is 01°14′09″ and the long chord of which bears South 86°33′04″ East, 743.67 feet;
thence South 00°19′33″ East, 127.79 feet;
thence South 85°56′06″ East, 25.00 feet;
thence South 00°19′33″ East, 105.00 feet;
thence North 87°43′34″ West, 728.33 feet;
thence South 02°25′27″ West, 768.43 feet;
thence South 87°34′33″ East, 171.00 feet;
thence Southeasterly, 23.56 feet, along the arc of a 15.00 foot radius curve to the right, the central angle of which is 90°00′00″, and the long chord of which bears South 42°34′33″ East, 21.21 feet;
thence South 02°25′27″ West, 71.32 feet;
thence South 87°34′33″ East, 66.49 feet;
thence Southeasterly, 106.26 feet, along the arc of a 200.00 foot radius curve to the right, the central angle of which is 30°26′33″, and the long chord of which bears South 72°21′17″ East, 105.02 feet;
thence South 57°08′00″ East, 46.71 feet;
thence Southeasterly, 53.13 feet, along the arc of a 100.00 foot radius curve to the left, the central angle of which is 30°26′33″, and the long chord of which bears South 72°21′17″ East, 52.51 feet;
thence South 87°34′33″ East, 641.17 feet, to a point on the East Line of said Section 2 and the POINT OF BEGINNING
Subject to the Right-of-Way of Lautner Road over the Easterly 33 feet thereof.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2020–08180 Filed 4–16–20; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY925000.L13400000.PQ0000 20X]

Notice of Availability of the Wyoming Pipeline Corridor Initiative Draft Environmental Impact Statement and Resource Management Plan Amendments for 9 BLM-Wyoming Resource Management Plans

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) and Draft Resource Management Plan (RMP) Amendment for the proposed Wyoming Pipeline Corridor Initiative (WPCI) within the BLM Cody, Worland, Buffalo, Casper, Lander, Pinedale, Kemmerer, Rawlins and Rock Springs field offices.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft RMP Amendment and Draft EIS within 90 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments on the DEIS during comment period on the WPCI ePlanning website at *https://go.usa.gov/xpCM.* Requests for information regarding the Draft EIS may be emailed to:

- *Mail:* Heather Schultz, WPCI EIS Project Manager, *hschultz@blm.gov.*

Copies of the Draft EIS are available on the project website at: *https://go.usa.gov/xpCMr.*

FOR FURTHER INFORMATION CONTACT: Heather Schultz, Project Manager, telephone 307–775–6084; address 5353 Yellowstone Road, Cheyenne Wyoming; email *hschultz@blm.gov.* Contact Ms. Schultz to add your name to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The State of Wyoming is proposing a pipeline corridor network reserved for the use and the transport of carbon dioxide (CO2), enhanced oil recovery (EOR) products and other compatible uses to be designated on BLM-managed lands in Wyoming through the land use planning process. The amendments would designate new corridors reserved for the transport of CO2, EOR products, and other compatible uses, that may support future Carbon Capture Storage and Utilization (CCUS) projects in the State of Wyoming. The State of Wyoming proposes that approximately 2,000 miles and 25 segments of pipeline corridors be designated on BLM-managed lands and in those associated RMPs. The proposed WPCI corridors are divided into segments based on proposed width and the regions they will service. The BLM plans to analyze the State's proposal by preparing an EIS. Based on the findings of the EIS process, the BLM may amend the nine RMPs containing lands proposed for pipeline corridors to designate those corridors. If the BLM were to receive a right-of-way application for CO2 or EOR product pipelines or related facilities in the future, project specific NEPA would be completed separately at that time. The purpose of this public comment process is to determine if relevant issues are addressed in the scope of the environmental analysis, including alternatives, and guide the planning process.

The BLM is analyzing four alternatives:

Alternative A: No Action Alternative: Under the no action alternative no new corridors would be designated, no Resource Management Plans would be amended, and management of existing corridors would remain the same.

Alternative B: Proposed Action: Designates new corridors reserved for the transport of CO2, EOR products, and other compatible uses. Portions (200 ft or 300 ft wide) of existing corridors would be reserved for pipelines and facilities associated with CO2, EOR products and other uses as outlined in the State of Wyoming Proposal. Additional corridors would be designated both in Sage Grouse Priority Habitat Management Areas (PHMA) and outside of PHMA as proposed by the state of Wyoming.

Alternative C: Maintain Existing Management in Existing Corridors and creates new corridors reserved for CO2, EOR products and other compatible uses. Routes would be modified or

eliminated from the Proposal to avoid resource conflicts, Sage Grouse PHMA, pre-existing rights, existing uses and infrastructure. Use of existing corridors would be maximized. Management of existing corridors would remain the same and would not be reserved for the transport of CO2, EOR products, and other compatible uses. Additional new corridors (200 ft or 300 ft wide) would be created for the transport of CO2, EOR products, and other compatible uses. Additional Corridors would be not be created in Sage Grouse PHMA.

Alternative D: Alternative D is the agency preferred alternative and dedicates portions of existing corridors and creates new corridors reserved for the transport of CO2, EOR products, and other compatible uses. Routes would be modified or eliminated from the Proposal to avoid resource conflicts, Sage Grouse PHMA, pre-existing rights, existing uses and infrastructure. Portions (200 ft or 300 ft wide) of existing corridors would be reserved for the transport of CO2, EOR products, and other compatible uses. Additional Corridors would be not be created in Sage Grouse PHMA.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, email address or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2

Duane Spencer,

BLM Wyoming State Director.

[FR Doc. 2020–08117 Filed 4–16–20; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOF02400.L16100000.DQ0000. LXSSC0100000.20X]

Notice of Availability of the Proposed Resource Management Plan and Associated Environmental Impact Statement for the Browns Canyon National Monument, Colorado

AGENCY: Bureau of Land Management.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, the Federal Land Policy and Management Act of 1976, as amended, and the National Forest Management Act of 1976, as amended, the Bureau of Land Management (BLM) Royal Gorge Field Office (RGFO), Cañon City, Colorado, and U.S. Forest Service (USFS), Pike-San Isabel National Forests and Comanche-Cimarron National Grasslands (PSICC), Pueblo, Colorado, have prepared a Proposed Resource Management Plan (RMP) and Forest Plan (FP) amendment, supported by an Environmental Impact Statement (EIS), for the Browns Canyon National Monument, and by this notice are announcing its availability.

DATES: BLM planning regulations state that any person who meets the conditions as described in the regulations may protest the BLM's Proposed RMP. The USFS has waived its objection procedures and instead adopted the BLM's administrative review process (36 CFR 219.59). A person who meets the conditions and files a protest must file the protest within 30 days of the date that the Environmental Protection Agency (EPA) publishes its Notice of Availability (NOA) in the **Federal Register** The EPA publishes its NOAs in the **Federal Register** weekly, usually on Fridays.

ADDRESSES: The Proposed RMP–FP amendment and Final EIS is available on the BLM ePlanning project website at *https://go.usa.gov/xn2eC.* Click the Documents and Reports link on the left side of the screen to find the electronic versions of these materials. Hard copies of the Proposed RMP–FP amendment and Final EIS are also available for public inspection by appointment at the BLM RGFO, 3028 E. Main St., Cañon City, CO 81212, and at the PSICC Salida Ranger District, 5575 Cleora Road, Salida, CO 81201.

All protests must be in writing and filed with the BLM Director, either as a hard copy or electronically via the BLM's ePlanning project website listed previously. To submit a protest electronically, go to the BLM ePlanning project website and follow the protest instructions highlighted at the top of the home page. If submitting a protest in hard copy, it must be mailed to one of the following addresses:

Regular Mail: Director (210), Attn: Protest Coordinator, P.O. Box 261117, Lakewood, CO 80226.

Overnight Delivery: Director (210), Attn: Protest Coordinator, 2850 Youngfield Street, Lakewood, CO 80215.

FOR FURTHER INFORMATION CONTACT: Joseph Vieira, Project Manager, telephone 719–246–9966; address 5575 Cleora Road, Salida, CO 81201; email *blm_co_brownscanyon@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact Mr. Vieira 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 BCNM was established by Presidential Proclamation 9232. The BLM and USFS have prepared the Proposed RMP–FP amendment and Final EIS for BCNM to evaluate the management strategy for monument resources, objects, and values, including resource uses and special designations within the BCNM. The planning area is located in Chaffee County, Colorado, and encompasses approximately 21,600 acres. The BCNM RMP–FP amendment will determine management for approximately 9,790 acres of BLM-administered surface land and approximately 11,810 acres of USFS-administered national forest. The monument also includes a portion of the Arkansas Headwaters Recreation Area, a cooperatively managed area along the Arkansas River administered by the BLM, the USFS, and Colorado Parks and Wildlife (CPW).

Major planning issues considered in the Proposed RMP–FP amendment and Final EIS are conserving and protecting monument resources, objects or values including bighorn sheep, peregrine falcon, terrestrial and avian wildlife habitat, cultural and historical resources, geological features and riparian values; maintaining monument values and settings; understanding and addressing tribal values including religious and other significant sites; addressing existing uses such as livestock grazing; and managing for sustainable outdoor recreation, visitor growth and visitor enjoyment. The Proposed RMP–FP amendment and Final EIS also considers BLM decisions regarding wild and scenic rivers, areas

of critical environmental concern, management of lands with wilderness characteristics and USFS decisions regarding wilderness suitability determinations.

The Proposed RMP–FP amendment and Final EIS describe and analyze three action alternatives and the No Action alternative. Each includes goals, objectives, allowable uses and management actions to address management challenges and issues and reflects management direction in Presidential Proclamation 9232.

Alternative A continues existing management, as reflected in decisions from the *Royal Gorge Resource Area Management Plan* (BLM 1996) and the *Pike and San Isabel National Forests and Cimarron and Comanche National Grasslands Land and Resource Management Plan* (USFS 1984), as amended. Alternative B focuses on protecting monument resources, objects, and values while providing primarily non-motorized recreation activities, such as hiking and boating, in a predominantly primitive and back-country setting. Alternative B limits future recreational infrastructure development while still allowing varied river-based and upland outdoor recreation experiences and outcomes. Alternative C focuses on a wider variety of river and upland recreation opportunities in backcountry, middle and front country settings to enhance the local economy and quality of life for residents and visitors. Alternative C includes protections for monument resources, objects, and values though emphasizes more proactive management of natural resources to address stressors and drivers, and a wider range of recreation opportunities and access as compared with management under Alternative B. Alternative D is the Proposed RMP–FP amendment and is a reasonable combination of management components from Alternatives A, B, and C presented in the Draft RMP–FP amendment and Draft EIS. The BLM and USFS developed the Proposed RMP–FP amendment consistent with DOI shared conservation and USFS ecosystem service and sustainable recreation priorities.

The BCNM Draft RMP–FP amendment and Draft EIS public comment period began on October 4, 2019. The BLM and USFS held three open-house public meetings in November 2019 and two webinars in December 2019. The BLM and USFS consulted with cooperating agencies and considered and incorporated public comments, as appropriate, in the Proposed RMP–FP amendment and Final EIS.

Instructions for filing a protest with the Director of the BLM regarding the Proposed RMP–FP amendment 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 or submitted electronically through the BLM ePlanning project website as described earlier. Protests submitted electronically by any means other than the ePlanning project website protest section, including by fax, also must be submitted in hard copy.

Before including your phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us in your protest to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2, 43 CFR 1610.5

Jamie E. Connell,

Colorado State Director.

[FR Doc. 2020–07744 Filed 4–16–20; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

Notice on Outer Continental Shelf Oil and Gas Lease Sales; MMAA104000

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: List of Restricted Joint Bidders.

SUMMARY: Pursuant to the Bureau of Ocean Energy Management (BOEM) regulatory restrictions on joint bidding, the Director of BOEM is publishing a List of Restricted Joint Bidders. Each entity within one of the following groups is restricted from bidding with any entity in any of the other following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period May 1, 2020, through October 31, 2020.

DATES: This List of Restricted Joint Bidders will cover the period May 1, 2020, through October 31, 2020, and replaces the prior list published on November 5, 2019 (84 FR 59644), which covered the period of November 1, 2019, through April 30, 2020.

Group I
- BP America Production Company
- BP Exploration & Production Inc.
- BP Exploration (Alaska) Inc.

Group II
- Chevron Corporation
- Chevron U.S.A. Inc.
- Chevron Midcontinent, L.P.
- Unocal Corporation
- Union Oil Company of California
- Pure Partners, L.P.

Group III
- Eni Petroleum Co. Inc.
- Eni Petroleum US LLC
- Eni Oil US LLC
- Eni Marketing Inc.
- Eni BB Petroleum Inc.
- Eni US Operating Co. Inc.
- Eni BB Pipeline LLC

Group IV
- Equinor ASA
- Equinor Gulf of Mexico LLC
- Equinor USA E&P Inc.

Group V
- Exxon Mobil Corporation
- ExxonMobil Exploration Company

Group VI
- Shell Oil Company
- Shell Offshore Inc.
- SWEPI LP
- Shell Frontier Oil & Gas Inc.
- SOI Finance Inc.
- Shell Gulf of Mexico Inc.

Group VII
- Total E&P USA, Inc.

Even if an entity does not appear on the above list, certain joint or single bids submitted by such entity may be disqualified, and rejected, by BOEM if that entity is chargeable for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas, and natural gas liquids. *See* 30 CFR 556.512.

Authority: 42 U.S.C. 6213; and 30 CFR 556.511–556.515.

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2020–08181 Filed 4–16–20; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR02054000, 19XR0687NA, RX.18527901.3000000]

Central Valley Project Improvement Act Criteria for Developing Refuge Water Management Plans 2020

AGENCY: Bureau of Reclamation, California-Great Basin—Interior Region 10.

ACTION: Notice of availability.

SUMMARY: The Bureau of Reclamation has made available to the public the

draft Criteria for Developing Refuge Water Management Plans 2020 (2020 Refuge Criteria) for public review and comment. Reclamation is publishing this notice in order to allow the public an opportunity to review the draft 2020 Refuge Criteria.

DATES: Submit written comments on the preliminary determinations on or before May 18, 2020.

ADDRESSES: Send written comments to Mr. David T. White, Bureau of Reclamation, 2800 Cottage Way, CGB–410, Sacramento, CA 95825; or via email at *dwhite@usbr.gov.*

FOR FURTHER INFORMATION CONTACT: To be placed on a mailing list for any subsequent information, please contact Mr. White at *dwhite@usbr.gov* or at 916–978–5208 (TDD 978–5608).

SUPPLEMENTARY INFORMATION: Section 3405(e) of the Central Valley Project Improvement Act (Title 34 Pub. L. 102–575) requires the Secretary of the Interior to, among other things, ''develop criteria for evaluating the adequacy of all water conservation plans'' developed by certain contractors. According to Section 3405(e)(1), these criteria must promote ''the highest level of water use efficiency reasonably achievable by project contractors using best available cost-effective technology and best management practices.'' In accordance with this legislative mandate, the Bureau of Reclamation developed and published the Refuge Criteria, which is updated every 3 years.

We invite the public to comment on our preliminary (*i.e.,* draft) 2020 Refuge Criteria.

A copy of the draft 2020 Refuge Criteria will be available for review at Reclamation's office in Sacramento, California, located at 2800 Cottage Way, CGB–410, Sacramento, CA 95825. If you wish to review a copy of the draft 2020 Refuge Criteria or receive an electronic copy via email, please contact Mr. White or visit *https://www.usbr.gov/mp/watershare.*

Sheryl Looper,

Acting Regional Resources Manager,Bureau of Reclamation, California-Great Basin—Interior Region 10.

[FR Doc. 2020–08155 Filed 4–16–20; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–573]

Global Economic Impact of Missing and Low Pesticide Maximum Residue Levels; Notice of Change in Completion Date, Clarification of Deadline for Filing Written Submissions

AGENCY: United States International Trade Commission.

ACTION: Change in date for transmittal of volume 1 of the Commission's report; clarification of a filing date relating to volume 2 of the report; and waiver of the requirement to file paper copies.

SUMMARY: The Commission has changed the date for transmittal of volume 1 of its report to the U.S Trade Representative (USTR) in this investigation from April 30, 2020 to June 30, 2020 due to COVID–19; is clarifying that the due date for written submission for volume 2 of its report is June 5, 2020; and has waived the requirement to file paper copies of those submissions.

DATES:

June 5, 2020: Deadline for filing all other written submissions for volume 2

June 30, 2020: Transmittal of volume 1 of Commission report to the USTR

October 31, 2020: Transmittal of volume 2 of Commission report to the USTR

(Delivered Monday, November 2, 2020)

ADDRESSES: All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov/edis3-internal/app.*

FOR FURTHER INFORMATION CONTACT: Project Leader Sabina Neumann (volumes 1 and 2) (202–205–3000 or *sabina.neumann@usitc.gov*) or Deputy Project Leader (volume 1) Steven LeGrand (202–205–3094 or *steven.legrand@usitc.gov*) or Deputy Project Leader (volume 2) Justin Choe (202–205–3229 or *justin.choe@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its website (*https://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2002.

SUPPLEMENTARY INFORMATION: The Commission published notice of institution of the above referenced investigation in the **Federal Register** on September 27, 2019 (84 FR 51178, September 27, 2019). In that notice the Commission stated that it would transmit volume 1 of its report to the USTR by April 30, 2020. However, due to COVID–19 and in accordance with a request on behalf of Ambassador Robert Lighthizer, the U.S. Trade Representative, the Commission will transmit volume 1 of its report to the USTR by June 30, 2020. This notice also corrects an ambiguity in the September 27, 2019 notice by clarifying that written submissions relating to volume 2 of the report should be filed with the Commission by June 5, 2020 (the original notice in one place gave June 3, 2020, as the due date). All other dates pertaining to this investigation remain the same as in the notice published in the **Federal Register** on September 27, 2019.

Written Submissions: In lieu of or in addition to participating in the hearing, the Commission invites interested parties to submit written statements concerning this investigation. All written submissions should be addressed to the Secretary, and should be received no later than 5:15 p.m., June 5, 2020 for matters to be covered by volume 2 of the Commission's report. All written submissions must conform with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 of the Rules (as further explained in the Commission's *Handbook on Filing Procedures*) requires that interested parties file documents electronically on or before the filing deadline (see the following paragraph for further information regarding confidential business information or ''CBI''). Persons with questions regarding electronic filing should email the Office of the Secretary, Docket Services Division at *EDIS3Help@usitc.gov.* The Commission has waived the requirement in section 201.8(d)(1) of its rules (19 CFR 201.8(d)(1)) that persons filing written submissions must also file paper copies

of their written submissions by noon of the next day; no paper copies should be filed.

Confidential Business Information (CBI): Any submissions that contain CBI must also conform to the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the Rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the CBI is clearly identified using brackets. The Commission will make all written submissions, except for those (or portions thereof) containing CBI, available for inspection by interested parties.

In his request letter, the USTR stated that his office intends to make the Commission's report available to the public in its entirety and asked that the Commission not include any CBI in the report that it delivers to the USTR.

The Commission will not include any of the CBI submitted in the course of this investigation in the report it sends to the USTR. However, all information, including CBI, submitted in 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 for cybersecurity purposes. The Commission will not otherwise disclose any CBI in a manner that would reveal the operations of the firm supplying the information.

Summaries of Written Submissions: The Commission intends to publish any summaries of written submissions filed by interested persons. Persons wishing to have a summary of their submission included in the report should include a summary with their written submission, titled ''Public Summary,'' and should mark the summary as having been provided for that purpose. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any CBI. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will identify the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: April 13, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–08102 Filed 4–16–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–620 and 731–TA–1445 (Final)]

Wooden Cabinets and Vanities From China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of wooden cabinets and vanities from China, provided for in subheadings 9403.40.90, 9403.60.80, and 9403.90.70 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV''), and to be subsidized by the government of China.

Background

The Commission instituted these investigations effective March 6, 2019, following receipt of petitions filed with the Commission and Commerce by the American Kitchen Cabinet Alliance. The final phase of these investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of wooden cabinets and vanities from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on October 24, 2019 (84 FR 57050). The hearing was held in Washington, DC, on February 20, 2020, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on April 13, 2020. The views of the Commission are contained in USITC Publication 5042 (April 2020), entitled *Wooden Cabinets and Vanities from China: Investigation Nos. 701–TA–620 and 731–TA–1445 (Final).*

By order of the Commission.

Issued: April 13, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–08091 Filed 4–16–20; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1124]

Certain Powered Cover Plates; Commission Determination Not to Review a Remand Initial Determination; Schedule for Filing Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review a remand initial determination (''RID'') issued by the presiding administrative law judge (''ALJ'') in the above-captioned investigation granting a motion for summary determination regarding whether certain redesigns infringe the asserted patents. The Commission requests briefing from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone (202) 205–2000. General

information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the investigation on July 23, 2018, based on a complaint filed by SnapRays, LLC d/b/a SnapPower of Vineyard, UT (''SnapPower,'' or Complainant). 83 FR 34871 (July 23, 2018). The complaint, as supplemented, alleges a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain powered cover plates by reason of infringement of certain claims of U.S. Patent Nos. 9,871,324 (''the '324 patent''); 9,882,361 (''the '361 patent''); 9,917,430 (''the '430 patent''); and U.S. Design Patent No. D819,426 (''the Design Patent,'' or ''the 'D426 patent'') (collectively, ''the Asserted Patents''). *Id.* at 34872. The notice of investigation named thirteen respondents: (1) Ontel Products Corporation of Fairfield, New Jersey; (2) Dazone, LLC of Ontario, Canada; (3) Shenzhen C-Myway of Shenzhen, Guangdong, China; (4) E-Zshop4u LLC of Howey in the Hills, Florida; (5) Desteny Store of Fort Meyers, Florida; (6) Zhongshan Led-Up Light Co., Ltd. of Zhongshan, Guangdong, China; (7) AllTrade Tools LLC of Cypress, California; (8) Guangzhou Sailu Info Tech. Co., Ltd. of Guangzhou, Gunagdong, China; (9) Zhejiang New-Epoch Communication Industry Co., Ltd. of Yueging, Zhejiang, China; (10) KCC Industries of Eastvale, California; (11) Vistek Technology Co., Ltd. of Fuyong, Baoan, Shenzhen, China (''Vistek''); (12) Enstant Technology Co., Ltd. of Xixiang Baoan District, Shenzhen, China (''Enstant''); and (13) Manufacturers Components Incorporated of Pompano Beach, Florida. *Id.* The Commission's Office of Unfair Import Investigations (''OUII'') was also named as a party.

The Commission previously terminated the investigation as to, or found in default, all named respondents except Enstant and Vistek. Order No. 5 (Sept. 26, 2018), *non-reviewed* Notice (Oct. 29, 2018); Order No. 6 (Sept. 26, 2018), *non-reviewed* Notice (Oct. 29, 2018); Order No. 8 (Sept. 28, 2018), *non-reviewed* Notice (Oct. 23, 2018); Order No. 12 (Oct. 2, 2018), *non-reviewed* Notice (Nov. 27, 2018); Order No. 18 (Nov. 28, 2018), *non-reviewed* Notice (Dec. 21, 2018); Order, No. 36 (Apr. 11, 2019), *non-reviewed* Notice (May 8, 2019).

On August 12, 2019, the ALJ issued her ''Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bond,'' finding a violation of section 337. The final ID found that a violation of section 337 occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation, of certain powered cover plates that infringe the asserted claims of the '361 patent by Enstant and Vistek (collectively, ''Enstant/Vistek,'' or ''Enstant''). *See id.* at 125–26.

The final ID noted that ''Respondents Enstant and Vistek filed a motion for summary determination of non-infringement ('Redesign SD Motion') of [the '361 patent] by Redesign Models P001 (Smart Wall Plate Charger, Decor Outlet, with USB charger) and P002 (Smart Wall Plate Charger, Duplex Outlet with USB charger).'' Final ID at 14. In the Redesign SD Motion, Enstant sought summary determination that powered cover plate model numbers P001 and P002 (''Enstant's Redesigns'') do not infringe claims 1, 3–4, 10, 14, 17, 21, and 23–24 of the '361 patent. Redesign SD Motion at 16. The final ID found, however, that ''Enstant's and Vistek's Redesign SD Motion was effectively rendered moot by rulings on Motions in Limine . . . .'' *Id.*

On October 11, 2019, the Commission determined to review in part and to remand the investigation to the ALJ for a remand initial determination (''RID'') to address the final ID's finding that Enstant/Vistek's Redesign SD Motion is moot. 84 FR 55985–86 (October 18, 2019). The Commission issued an ''Order: Remand of a Final Initial Determination In Part'' directing the ALJ to expeditiously issue an RID as to this finding and to ''extend the target date for termination of the investigation by ID pursuant to 19 CFR 210.51(a)(1) to three months after the issuance of the RID.'' Commission Order at 5 (October 11, 2019).

On January 30, 2020, the ALJ issued the subject RID granting Enstant's Redesign SD Motion. The ALJ found that Enstant's Redesigns are properly at issue in this investigation because (1) Enstant's Redesigns are within the scope of this investigation and within the Commission's jurisdiction, RID at 10–12; (2) Enstant's Redesigns are fixed in design and not ''hypothetical,'' RID at 12–13; and (3) the parties exchanged discovery regarding the Redesigns, RID at 13–15. The ALJ also found that there is no dispute that Enstant's Redesigns do not infringe claims 1, 3–4, 10, 14, 17, 21, and 23–24 of the '361 patent—the only patent asserted against Enstant's Redesigns. RID at 15–20. No party petitioned for review of the RID.

The Commission has determined not to review the subject RID.

In connection with the final disposition of this investigation, the statute authorizes issuance of: (1) An exclusion order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) one or more cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, *see Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337- TA–360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (Dec. 1994). In addition, if a party seeks issuance of any cease and desist orders, the written submissions should address that request in the context of recent Commission opinions, including those in *Certain Arrowheads with Deploying Blades and Components Thereof and Packaging Therefor,* Inv. No. 337–TA–977, Comm'n Op. (Apr. 28, 2017) and *Certain Electric Skin Care Devices, Brushes and Chargers Therefor, and Kits Containing the Same,* Inv. No. 337–TA–959, Comm'n Op. (Feb. 13, 2017). Specifically, if Complainant seeks a cease and desist order against a respondent, the written submissions should respond to the following requests:

1. Please identify with citations to the record any information regarding commercially significant inventory in the United States as to each respondent against whom a cease and desist order is sought. If Complainant also relies on other significant domestic operations that could undercut the remedy provided by an exclusion order, please identify with citations to the record such information as to each respondent against whom a cease and desist order is sought.

2. In relation to the infringing products, please identify any information in the record, including allegations in the pleadings, that

addresses the existence of any domestic inventory, any domestic operations, or any sales-related activity directed at the United States for each respondent against whom a cease and desist order is sought.

3. Please discuss any other basis upon which the Commission could enter a cease and desist order.

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on: (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest and bonding. Such initial written submissions should include views on the recommended determination on remedy and bonding issued on August 12, 2019, by the ALJ.

In its initial written submission, Complainant is also requested to identify the form of the remedy sought and to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the expiration date of the '324, '361, '430, and 'D426 patents, the HTSUS subheadings under which the accused articles are imported, and to supply identification information for all known importers of the accused products. Initial written submissions, including proposed remedial orders must be filed no later than the close of business on March 30, 2020. Reply submissions must be filed no later than the close of business on April 6, 2020. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

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 section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1124'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: March 11, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–08103 Filed 4–16–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–576]

COVID–19 Related Goods: U.S. Imports and Tariffs; Institution of Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice of investigation.

SUMMARY: Following receipt on April 7, 2020, of a request from the House Committee on Ways and Means and the Senate Committee on Finance (the Committees), under section 332(g) of the Tariff Act of 1930, the U.S. International Trade Commission (Commission) instituted Investigation No. 332–576, *COVID–19 Related Goods: U.S. Imports and Tariffs,* for the purpose of providing a report that identifies imported goods related to the response to COVID–19, their source countries, tariff classifications, and applicable rates of duty.

DATES:

April 30, 2020: Date by which the Commission will transmit the report to the Committees.

June 30, 2020: Date through which the Commission will provide updated data runs to the Committees.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Project Leader Mihir Torsekar (202–205–3350 or *Mihir.Torsekar@usitc.gov*) or Project Leader Andrew David (202–205–3368 or *Andrew.David@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General

information concerning the Commission may also be obtained by accessing its website (*https://www.usitc.gov*).

Background: As requested by the Committees, the Commission will conduct an investigation and prepare a report that, to the extent practical, identifies imported goods related to the response to COVID–19, their source countries, tariff classifications, and applicable rates of duty. For each product that the Commission so identifies, the Commission will seek to provide:

1. The 10-digit HTS code for the article;
2. its legal description;
3. general duty rate;
4. any special or additional rates of duty imposed on the article, the dates on which the rates were imposed, and the authorities under which they were imposed;
5. whether any such duties have been suspended and, if so, the date of suspension as well as how long the suspension is scheduled to last;
6. the total rate of duty imposed on such article, including any special or additional rate of duty; and
7. the major countries of origin for each such article, and the import value of each such article from each country for the years 2017–2019.

The Committees asked that the Commission deliver the report as soon as possible, but no later than April 30, 2020. The Committees further requested that the Commission provide any relevant updated data runs on its website through June 30, 2020. The Committees stated that they intend to make the Commission's report available to the public and asked that the report not include any confidential business information.

Confidential Business Information. As requested by the Committees, the Commission will not include any confidential business information in the report that it sends to the Committees. However, all information, including confidential business information, submitted in 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 (a) for cybersecurity purposes or (b) in monitoring user activity on U.S. government classified networks. The Commission will not otherwise disclose any confidential business information in a way that would reveal the operations of the firm supplying the information.

By order of the Commission.
Issued: April 13, 2020.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2020–08144 Filed 4–16–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–574]

Renewable Electricity: Potential Economic Effects of Increased Commitments in Massachusetts; Notice of Postponement of Public Hearing, Dates for Filing Written Submissions

AGENCY: United States International Trade Commission.

ACTION: Notice of postponement of public hearing.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has postponed, to dates to be determined, the public hearing and the filing dates for written submissions in Investigation No. 332–574, *Renewable Electricity: Potential Economic Effects of Increased Commitments in Massachusetts* due to COVID–19.

SUPPLEMENTARY INFORMATION: The Commission published notice of institution of the above referenced investigation in the **Federal Register** on February 19, 2020 (85 FR 9479, February 19, 2020). In that notice, the Commission announced that it would hold a public hearing on May 7, 2020, and it also set dates by which requests to appear at the hearing, briefs, and other written submissions should be filed. However, due to COVID–19, the Commission has postponed the hearing to a date to be determined. The Commission will publish notice in the **Federal Register**, when circumstances permit, of a new date for the public hearing as well as new dates by which requests to appear at the hearing, briefs, and other written submissions should be filed. Pending publication of new dates, the Commission welcomes the filing of any written submissions relevant to this investigation. Such submissions must be filed in electronic form; the Commission cannot accept paper filings at this time.

FOR FURTHER INFORMATION CONTACT: Project Leader Diana Friedman (202–205–3433 or *diana.friedman@usitc.gov*) or Deputy Project Leader Patricia Mueller (202–205–2599 or *patricia.mueller@usitc.gov*) for information specific to this investigation. For hearing-related 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. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

By order of the Commission.
Issued: April 13, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–08104 Filed 4–16–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–575]

Seafood Obtained via Illegal, Unreported, and Unregulated Fishing: U.S. Imports and Economic Impact on U.S. Commercial Fisheries; Notice of Postponement of Public Hearing, Dates for Filing Written Submissions

AGENCY: United States International Trade Commission.

ACTION: Notice of postponement of public hearing.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has postponed, to dates to be determined, the public hearing and filing dates for written submissions in Investigation No. 332–575, *Seafood Obtained via Illegal, Unreported, and Unregulated Fishing: U.S. Imports and Economic Impact on U.S. Commercial Fisheries* due to COVID–19.

SUPPLEMENTARY INFORMATION: The Commission published notice of institution of the investigation in the **Federal Register** on January 31, 2020

(85 FR 5704, January 31, 2020). In that notice, the Commission announced that it would hold a public hearing on May 12, 2020, and it also set dates by which requests to appear at the hearing, briefs, and other written submissions should be filed. However, due to COVID–19, the Commission has postponed the hearing to a date to be determined. The Commission will publish notice in the **Federal Register**, when circumstances permit, of a new date for the public hearing as well as new dates by which requests to appear at the hearing, briefs, and other written submissions should be filed. Pending publication of new dates, the Commission welcomes the filing of any written submissions relevant to this investigation. Such submissions must be filed in electronic form; the Commission cannot accept paper filings at this time.

FOR FURTHER INFORMATION CONTACT: Project Leader Renee Berry (202–205–3498 or *renee.berry@usitc.gov*) or Deputy Project Leader Daniel Matthews (202–205–5991 or *daniel.matthews@usitc.gov*) for information specific to this investigation. For hearing-related 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. For information on the legal aspects of these investigations, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

By order of the Commission.

Issued: April 13, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–08100 Filed 4–16–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Digital Manufacturing Design Innovation Institute

Notice is hereby given that, on April 1, 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''), Digital Manufacturing Design Innovation Institute (''DMDII'') 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, Horizon Controls Group, Inc., Blue Bell, PA; ShapeMatrix, Brooklyn, NY; Task Watch, Mason, OH; Elementary Robotics, Pasadena, CA; RYE Consulting, Chicago, IL; Virginia Polytechnic Institute and State University, Blacksburg, VA; Drexel University, Philadelphia, PA have been added as parties to this venture.

Also, Astronautics Corporation of America, Milwaukee, WI has withdrawn 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 DMDII intends to file additional written notifications disclosing all changes in membership.

On January 5, 2016, DMDII 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 March 9, 2016 (81 FR 12525).

The last notification was filed with the Department on January 2, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 30, 2020 (85 FR 5478).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–08125 Filed 4–16–20; 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—ODVA, INC.

Notice is hereby given that, on April 6, 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''), ODVA, Inc. (''ODVA'') 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, Norgren Manufacturing Co., Ltd., Shanghai, PEOPLE'S REPUBLIC OF CHINA; FUTEK Advanced Sensor Technology, Inc., Irvine, CA; M2M craft Co., Ltd., Sapporo, JAPAN; Myostat Motion Control, Newmarket, ON, CANADA; FMS Force Measuring Systems AG, Oberglatt, SWITZERLAND; Mewes & Partner GmbH, Hennigsdorf, GERMANY; and Hydronix Limited, Normandy, UNITED KINGDOM, have been added as parties to this venture.

Also, Polytec GmbH & Co. KG, Waldbronn, GERMANY; Aerotech Inc., Pittsburgh, PA; and Toyo Denki Seizo KK, Tokyo, JAPAN, 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 ODVA intends to file additional written notifications disclosing all changes in membership.

On June 21, 1995, ODVA 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 February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on January 15, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 31, 2020 (85 FR 5706).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–08120 Filed 4–16–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Jier Shin Korea Co., Ltd., et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, a Stipulation, and a Competitive Impact Statement have been filed with the United States District Court for the Southern District of Ohio in *United States* v. *Jier Shin Korea Co., Ltd., et al.,* Case No. 2:20–cv–1778. On April 8, 2020, the United States filed a Complaint alleging that between 2005 and 2016, Jier Shin Korea Co., Ltd. (''Jier Shin Korea'') and its president Sang Joo Lee, along with other co-conspirators, conspired to rig bids for Posts, Camps & Stations (PC&S) and Army and Air Force Exchange Service (AAFES) fuel supply contracts with the U.S. military in South Korea, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. A proposed Final Judgment, filed at the same time as the Complaint, requires Defendants to jointly and severally pay the United States $2,000,000. In addition, Defendants have agreed to cooperate with further civil investigative and judicial proceedings and Jier Shin Korea has agreed to institute an antitrust compliance program.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the Southern District of Ohio. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's website, filed with the Court, and, under certain circumstances, published in the **Federal Register.** Comments should be directed to Robert A. Lepore, Chief, Transportation, Energy & Agriculture Section, Antitrust Division, Department of Justice, 450 5th Street NW, Suite 8000, Washington, DC 20530 (telephone: 202–307–6349).

Suzanne Morris,

Chief, Premerger and Division Statistics.

United States District Court for the Southern District of Ohio Eastern Division

United States of America, Plaintiff, v. *Jier Shin Korea Co., Ltd., Jindo Bldg., Room 1405, 37, Dohwa-dong, Mapo-gu, Seoul, South Korea,* and *Sang Joo Lee, c/o Jier Shin Korea Co., Ltd., indo Bldg., Room 1405, 37, Dohwa-dong, Mapo-gu, Seoul, South Korea,* Defendants.

Case No. 2:20–cv–1788
Complaint: Violation of Section 1 of the Sherman Act, 15 U.S.C. 1

Complaint

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to obtain equitable monetary relief and recover damages from Jier Shin Korea Co., Ltd. and Sang Joo Lee for conspiring to rig bids and fix prices, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1, on the supply of fuel to the U.S. military for its operations in South Korea.

I. Introduction

1. Since the end of the Korean War, the U.S. armed forces have maintained a significant presence in South Korea, protecting American interests in the region and safeguarding peace for the Korean people. To perform this important mission, American service members depend on fuel to power their bases and military vehicles. The U.S. military procures this fuel from oil refiners located in South Korea through a competitive bidding process.

2. For at least a decade, rather than engage in fair and honest competition, Defendants and their co-conspirators defrauded the U.S. military by fixing prices and rigging bids for the contracts to supply this fuel. Defendants met and communicated in secret with large South Korean oil refiners and other logistics companies, and pre-determined which conspirator would win each contract. Defendants or their co-conspirators then fraudulently submitted collusive bids to the U.S. military. Through this scheme, Defendants reaped supracompetitive profit margins on the fuel delivered to the U.S. military.

3. As a result of this conduct, Defendants and their co-conspirators illegally overcharged American taxpayers by well over $100 million. This conspiracy unreasonably restrained trade and commerce, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

II. Defendants

4. Jier Shin Korea Co., Ltd. (''Jier Shin Korea'') is a small, privately held logistics company located in Seoul, South Korea. Jier Shin Korea provides logistics services related to the transportation of fuel, petroleum by-products, and other goods. During the conspiracy, Jier Shin Korea partnered with a South Korean oil refiner, Hyundai Oilbank Co., Ltd. (''Hyundai Oilbank''), to supply fuel to U.S. military installations in South Korea, with Jier Shin Korea acting as the prime contractor under the relevant contracts.

5. Sang Joo Lee is the president of Jier Shin Korea. Jier Shin Korea is a closely held firm majority owned by Lee and his family.

6. Other persons, not named as defendants in this action, participated as co-conspirators in the offense alleged in this Complaint and performed acts and made statements in furtherance thereof. These co-conspirators include, among others, GS Caltex Corporation (''GS Caltex''), Hanjin Transportation Co., Ltd. (''Hanjin''), SK Energy Co., Ltd. (''SK Energy''), Hyundai Oilbank, and S-Oil Corporation (''S-Oil'').

7. Whenever this Complaint refers to any act, deed, or transaction of any business entity, it means that the business entity engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs. As president of Jier Shin Korea, Lee knowingly, directly, and substantially participated in the acts of Jier Shin Korea described herein.

III. Jurisdiction and Venue

8. The United States brings this action under Section 4 of the Sherman Act, 15 U.S.C. 4, and Section 4A of the Clayton Act, 15 U.S.C. 15a, seeking equitable relief, including equitable monetary remedies, and damages from Defendants' violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

9. This Court has subject matter jurisdiction over this action under 15 U.S.C. 4 and 15a and 28 U.S.C. 1331 and 1337.

10. Defendants have consented to venue and personal jurisdiction in this district for the purpose of this Complaint.

11. Defendants or their co-conspirators entered into contracts with the U.S. military to supply and deliver fuel to U.S. military installations in South Korea. Under the terms of these

contracts, Defendants or their co-conspirators agreed that the laws of the United States would govern all contractual disputes and that U.S. administrative bodies and courts would have exclusive jurisdiction to resolve all such disputes. To be eligible to enter into these contracts, Defendants or their co-conspirators registered in databases located in the United States. For certain contracts, Defendants or their co-conspirators submitted bids to U.S. Department of Defense offices in the United States. After being awarded these contracts, Defendants or their co-conspirators submitted invoices to and received payments from U.S. Department of Defense offices in Columbus, Ohio, which included use of wires and mails located in the United States.

12. Through these contracts with the U.S. military, Defendants' activities had a direct, substantial, and reasonably foreseeable effect on interstate commerce, import trade or commerce, and commerce with foreign nations. Defendants' conspiracy had a substantial and intended effect in the United States. Defendants caused U.S. Department of Defense agencies to pay non-competitive prices for the supply of fuel to U.S. military installations. Defendants or their co-conspirators also caused a U.S. Department of Defense agency located in the Southern District of Ohio to transfer U.S. dollars to their foreign bank accounts.

IV. Background

13. From at least March 2005 and continuing until at least October 2016 (''the Relevant Period''), the U.S. military procured fuel for its installations in South Korea through competitive solicitation processes. Oil companies, either independently or in conjunction with a logistics company, submitted bids in response to these solicitations.

14. The conduct at issue relates to two types of contracts to supply fuel to the U.S. military for use in South Korea: Post, Camps, and Stations (''PC&S'') contracts and Army and Air Force Exchange Services (''AAFES'') contracts.

15. PC&S contracts are issued and administered by the Defense Logistics Agency (''DLA''), a combat support agency in the U.S. Department of Defense. DLA, formerly known as the Defense Energy Support Center, is headquartered in Fort Belvoir, Virginia. The fuel procured under PC&S contracts is used for military vehicles and to heat U.S. military buildings. During the Relevant Period, PC&S contracts ran for a term of three or four years. DLA issued PC&S solicitations listing the fuel requirements for installations across South Korea, with each delivery location identified by a separate line item. Bidders offered a price for each line item on which they chose to bid. DLA awarded contracts to the bidders offering the lowest price for each line item. The Defense Finance and Accounting Service (''DFAS''), a finance and accounting agency of the U.S. Department of Defense, wired payments to the PC&S contract awardees from its office in Columbus, Ohio.

16. AAFES is an agency of the Department of Defense headquartered in Dallas, Texas. AAFES operates official retail stores (known as ''exchanges'') on U.S. Army and Air Force installations worldwide, which U.S. military personnel and their families use to purchase everyday goods and services, including gasoline for use in their personal vehicles. AAFES procures fuel for these stores via contracts awarded through a competitive solicitation process. The term of AAFES contracts is typically two years, but may be extended for additional years. In 2008, AAFES issued a solicitation that listed the fuel requirements for installations in South Korea. Unlike DLA, AAFES awarded the entire 2008 contract to the bidder offering the lowest price across all the listed locations.

V. Defendants' Unlawful Conduct

17. From at least March 2005 and continuing until at least October 2016, Defendants and their co-conspirators engaged in a series of meetings, telephone conversations, emails, and other communications to rig bids and fix prices for the supply of fuel to U.S. military installations in South Korea.

2006 PC&S and 2008 AAFES Contracts

18. GS Caltex, SK Energy, Hyundai Oilbank, and Jier Shin Korea (through Lee and other agents) conspired to rig bids and fix prices on the 2006 PC&S contracts, which were issued in response to solicitation SP0600–05–R–0063, supplemental solicitation SP0600–05–0063–0001, and their amendments. The term of the 2006 PC&S contracts covered the supply of fuel from February 2006 through July 2009.

19. Between early 2005 and mid-2006, GS Caltex, SK Energy, Hyundai Oilbank, and Jier Shin Korea met multiple times and exchanged phone calls and emails to allocate the line items in the solicitations for the 2006 PC&S contracts. For each line item allocated to a different co-conspirator, the other conspirators agreed not to bid or to bid high enough to ensure that they would not win that item. Through these communications, these conspirators agreed to inflate their bids to produce higher profit margins. DLA awarded the 2006 PC&S line items according to the allocations made by the conspiracy.

20. As part of their discussions related to the 2006 PC&S contracts, Jier Shin Korea and other conspirators agreed not to compete with SK Energy in bidding for the 2008 AAFES contract. In 2008, GS Caltex, Hyundai Oilbank, and Jier Shin Korea honored their agreement: GS Caltex bid significantly above the bid submitted by SK Energy for the AAFES contract, while Hyundai Oilbank and Jier Shin Korea declined to bid even after AAFES explicitly requested their participation in the bidding. The initial term of the 2008 AAFES contract ran from July 2008 to July 2010; the contract was later extended through July 2013. As envisioned by the conspiracy, AAFES awarded the 2008 contract to SK Energy.

2009 PC&S Contracts

21. Continuing their conspiracy, Jier Shin Korea and other co-conspirators conspired to rig bids and fix prices for the 2009 PC&S contracts, which were issued in response to solicitation SP0600–08–R–0233. Hanjin and S-Oil joined the conspiracy for the purpose of bidding on the solicitation for the 2009 PC&S contracts. Hanjin and S-Oil partnered to bid jointly on the 2009 PC&S contracts, with S-Oil providing the fuel and Hanjin providing transportation and logistics. The term of the 2009 PC&S contracts covered the supply of fuel from October 2009 through August 2013.

22. Between late 2008 and mid-2009, Jier Shin Korea and other co-conspirators met multiple times and exchanged phone calls and emails to allocate the line items in the solicitation for the 2009 PC&S contracts. As in 2006, these conspirators agreed to bid high so as to not win line items allocated to other co-conspirators. The original conspirators agreed to allocate to Hanjin and S-Oil certain line items that had previously been allocated to the original conspirators.

23. With one exception, DLA awarded the 2009 PC&S contracts in line with the allocations made by Jier Shin Korea and other co-conspirators. Hyundai Oilbank and Jier Shin Korea accidentally won one line item that the conspiracy had allocated to GS Caltex. To remedy this misallocation, Jier Shin Korea, Hyundai Oilbank, and GS Caltex agreed that GS Caltex, rather than Hyundai Oilbank, would supply Jier Shin Korea with the fuel procured under this line item.

2013 PC&S Contracts

24. Similar to 2006 and 2009, Jier Shin Korea and other co-conspirators conspired to rig bids and fix prices for the 2013 PC&S contracts, which were issued in response to solicitation SP0600–12–R–0332. The term of the 2013 PC&S Contract covered the supply of fuel from August 2013 through July 2016.

25. Jier Shin Korea and other co-conspirators communicated via phone calls and emails to allocate and set the price for each line item in the solicitation for the 2013 PC&S contracts. Jier Shin Korea and other co-conspirators believed that they had an agreement as to their bidding strategy and pricing for the 2013 PC&S contracts. As a result of this agreement, they bid higher prices than they would have in a competitive process.

26. However, Hanjin and S-Oil submitted bids for the 2013 PC&S contracts below the prices set by the other co-conspirators. Although lower than the pricing agreed upon by the conspirators, Hanjin and S-Oil still submitted bids above a competitive, non-collusive price, knowing that they would likely win the contracts because the other conspirators would bid even higher prices.

27. As a result of their bidding strategy, Hanjin and S-Oil jointly won nearly all the line items in the 2013 PC&S contracts. As in 2009, S-Oil was to provide the fuel for these line items, and Hanjin was to provide transportation and logistics. Jier Shin Korea and other co-conspirators won a few, small line items; SK Energy won none. DLA made inflated payments under the 2013 PC&S contracts through October 2016.

28. After the award of the 2013 PC&S contracts, Hanjin, S-Oil, and GS Caltex reached an understanding that GS Caltex, rather than S-Oil, would supply Hanjin with fuel for certain line items. Under this side agreement, Hanjin paid a much lower price to GS Caltex for fuel than the price it previously had agreed to pay S-Oil to acquire fuel for those line items. However, the price that Hanjin paid to GS Caltex exceeded a competitive price for fuel.

VI. Violations Alleged

29. The United States incorporates by reference the allegations in paragraphs 1 through 28.

30. The conduct of Defendants and their co-conspirators unreasonably restrained trade and harmed competition for the supply of fuel to the U.S. military in South Korea in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

31. The United States was injured as a result of the unlawful conduct because it paid more for the supply of fuel than it would have had Defendants and their co-conspirators engaged in fair competition.

VII. Request for Relief

32. The United States requests that this Court:

(a) Adjudge that Defendants' and their co-conspirators' conduct constitutes an unreasonable restraint of interstate commerce, import trade or commerce, and commerce with foreign nations in violation of Section 1 of the Sherman Act, 15 U.S.C. 1;

(b) award the United States damages to which it is entitled for the losses incurred as the result of Defendants' and their co-conspirators' conduct;

(c) award the United States equitable disgorgement of the ill-gotten gains obtained by Defendants;

(d) award the United States its costs of this action; and

(e) award the United States other relief that the Court deems just and proper.

Dated: April 8, 2020

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA:

/s/ _____

Makan Delrahim,
Assistant Attorney General for Antitrust.

/s/ _____

Bernard A. Nigro, Jr.,
Principal Deputy Assistant Attorney General.

/s/ _____

Kathleen S. O'Neill,
Senior Director of Investigations and Litigation.

/s/ _____

Robert A. Lepore,
Chief, Transportation, Energy & Agriculture Section.

/s/ _____

Katherine Celeste,
Assistant Chief, Transportation, Energy & Agriculture Section.

/s/ _____

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Dated: April 8, 2020

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA:

DAVID M. DEVILLERS,
United States Attorney.

By:

/s/ _____

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United States District Court for the Southern District of Ohio Eastern Division

United States of America,Plaintiff, v. *Jier Shin Korea Co., Ltd.* and *Sang Joo Lee,* Defendants.

Case No. 2:20–cv–1788

Proposed Final Judgment as to Defendants Jier Shin Korea Co., Ltd. and Sang Joo Lee

Whereas Plaintiff, United States of America, filed its Complaint on April 8, 2020, the United States and Defendants Jier Shin Korea Co., Ltd. (''Jier Shin Korea'') and Sang Joo Lee, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law;

Whereas, this Final Judgment does not constitute any evidence against or admission by any party regarding any issue of fact or law;

Now, therefore, before the taking of any testimony and without trial or final adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *Ordered, Adjudged, and Decreed:*

I. Jurisdiction

This Court has jurisdiction over the subject matter of this action and each of the parties. The Complaint states a claim upon which relief may be granted to the United States against Jier Shin Korea and Sang Joo Lee under Section 1 of the Sherman Act, 15 U.S.C. 1.

II. Applicability

This Final Judgment applies to Jier Shin Korea and Sang Joo Lee, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

III. Payments

Jier Shin Korea and Sang Joo Lee jointly and severally shall pay to the United States the total sum of two million dollars ($2,000,000) over three installments:

(a) Within ten (10) business days of the entry of this Final Judgment, the amount of one million dollars ($1,000,000);

(b) within one (1) calendar year of the entry of this Final Judgment, the amount of five hundred thousand dollars ($500,000); and

(c) within two (2) calendar years of the entry of this Final Judgment, the amount of five hundred thousand dollars ($500,000);

less the amount paid (excluding any interest) pursuant to the settlement agreement attached hereto as Attachment 1. These payments satisfy all civil antitrust claims alleged against Jier Shin Korea and Sang Joo Lee by the United States in the Complaint. Payments of the amounts ordered hereby shall be made by wire transfer of funds or cashier's check. If the payment is made by wire transfer, Jier Shin Korea and Sang Joo Lee shall contact Janie Ingalls of the Antitrust Division's Antitrust Documents Group at (202) 514–2481 for instructions before making the transfer. If the payment is made by cashier's check, the check shall be made payable to the United States Department of Justice and delivered to: Janie Ingalls, United States Department of Justice Antitrust Division, Antitrust Documents Group, 450 5th Street NW, Suite 1024, Washington, DC 20530. In the event of a default in payment, interest at the rate of eighteen (18) percent per annum shall accrue thereon from the date of default to the date of payment.

Jier Shin and Sang Joo Lee have provided sworn financial disclosure statements (''Financial Statements'') to the United States and the United States has relied on the accuracy and completeness of those Financial Statements in agreeing to this Final Judgment. Jier Shin and Sang Joo Lee warrant that the Financial Statements are complete, accurate, and current. If the United States learns of any asset(s) in which Jier Shin and Sang Joo Lee had an interest as of April 8, 2020 that were not disclosed in the Financial Statements, or if the United States learns of any misrepresentation by Jier Shin and Sang Joo Lee on, or in connection with, the Financial Statements, and if such nondisclosure or misrepresentation changes the estimated net worth set forth in the Financial Statements by $100,000 or more, the United States may collect the full payments set forth in this section plus one hundred percent (100%) of the value of the net worth of Jier Shin and Sang Joo Lee previously undisclosed. Jier Shin and Sang Joo Lee agree not to contest any collection action undertaken by the United States pursuant to this provision, and immediately to pay the United States all reasonable costs incurred in such an action, including attorney's fees and expenses.

IV. Cooperation

Jier Shin Korea and Sang Joo Lee shall cooperate fully with the United States regarding any matter about which they have knowledge or information relating to any ongoing civil investigation, litigation, or other proceeding arising out of any ongoing federal investigation of the subject matter discussed in the Complaint (hereinafter, any such investigation, litigation, or proceeding shall be referred to as a ''Civil Federal Proceeding'').

The United States agrees that any cooperation provided pursuant to the settlement agreement attached hereto as Attachment 1 will be considered cooperation for purposes of this Final Judgment, and the United States will use its reasonable best efforts, where appropriate, to coordinate any requests for cooperation in connection with the Civil Federal Proceeding with requests for cooperation in connection with the settlement agreement attached hereto as Attachment 1, so as to avoid unnecessary duplication and expense.

Jier Shin Korea and Sang Joo Lee's cooperation shall include, but not be limited to, the following:

(a) Upon request, completely and truthfully disclosing and producing, to the offices of the United States and at no expense to the United States, copies of all non-privileged information, documents, materials, and records in their possession (and for any foreign-language information, documents, materials, or records, copies must be produced with an English translation), regardless of their geographic location, about which the United States may inquire in connection with any Civil Federal Proceeding, including but not limited to all information about activities of Jier Shin Korea and present and former officers, directors, employees, and agents of Jier Shin Korea;

(b) Making available in the United States, at no expense to the United States, Jier Shin Korea's present officers, directors, employees, and agents to provide information and/or testimony as requested by the United States in connection with any Civil Federal Proceeding, including the provision of testimony in trial and other judicial proceedings, as well as interviews with law enforcement authorities, consistent with the rights and privileges of those individuals;

(c) Using their best efforts to make available in the United States, at no expense to the United States, Jier Shin Korea's former officers, directors, employees, and agents to provide information and/or testimony as requested by the United States in connection with any Civil Federal Proceeding, including the provision of testimony in trial and other judicial proceedings, as well as interviews with law enforcement authorities, consistent with the rights and privileges of those individuals;

(d) Providing testimony or information necessary to identify or establish the original location, authenticity, or other basis for admission into evidence of documents or physical evidence produced by Jier Shin Korea or Sang Joo Lee in any Civil Federal Proceeding as requested by the United States; and

(e) Completely and truthfully responding to all other inquiries of the United States in connection with any Civil Federal Proceeding.

However, notwithstanding any provision of this Final Judgment, Jier Shin Korea and Sang Joo Lee are not required to: (1) Request of Jier Shin Korea's current or former officers, directors, employees, or agents that they forgo seeking the advice of an attorney nor that they act contrary to that advice; (2) take any action against Jier Shin Korea's officers, directors, employees, or agents for following their attorney's advice; or (3) waive any claim of privilege or work product protection.

The obligations of Jier Shin Korea and Sang Joo Lee to cooperate fully with the United States as described in this Section shall cease upon the conclusion of all Civil Federal Proceedings (which may include Civil Federal Proceedings related to the conduct of third parties), including exhaustion of all appeals or expiration of time for all appeals of any Court ruling in each such Civil Federal Proceeding, at which point the United States will provide written notice to Jier Shin Korea and Sang Joo Lee that their obligations under this Section have expired.

V. Antitrust Compliance Program

A. Within thirty (30) days after entry of this Final Judgment, Jier Shin Korea shall appoint an Antitrust Compliance Officer and identify to the United States his or her name, business address, telephone number, and email address. Within forty-five (45) days of a vacancy in the Antitrust Compliance Officer position, Jier Shin Korea shall appoint a replacement, and shall identify to the United States the Antitrust Compliance Officer's name, business address, telephone number, and email address. Jier Shin Korea's initial or replacement appointment of an Antitrust Compliance Officer is subject to the approval of the United States, in its sole discretion.

B. The Antitrust Compliance Officer shall institute an antitrust compliance program for Jier Shin Korea's employees and directors. The antitrust compliance program shall provide at least two hours of training annually on the antitrust laws of the United States, such training to be delivered by an attorney with relevant experience in the field of United States antitrust law.

C. Each Antitrust Compliance Officer shall obtain, within six months after entry of this Final Judgment, and on an annual basis thereafter, on or before each anniversary of the entry of this Final Judgment, from each person subject to Paragraph V.B of this Final Judgment, and thereafter maintaining, a certification that each such person has received the required two hours of annual antitrust training.

D. Each Antitrust Compliance Officer shall communicate annually to all Jier Shin Korea employees that they may disclose to the Antitrust Compliance Officer, without reprisal, information concerning any potential violation of the United States antitrust laws.

E. Each Antitrust Compliance Offer shall provide to the United States within six months after entry of this Final Judgment, and on an annual basis thereafter, on or before each anniversary of the entry of this Final Judgment, a written statement as to the fact and manner of Jier Shin Korea's compliance with Section V of this Final Judgment.

VI. Retention of Jurisdiction

This Court retains jurisdiction to enable any of the parties to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

VII. Enforcement of Final Judgment

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. Jier Shin Korea and Sang Joo Lee agree that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of this Final Judgment, the United States may establish a violation of the decree and the appropriateness of any remedy therefor by a preponderance of the evidence, and Jier Shin Korea and Sang Joo Lee waive any argument that a different standard of proof should apply.

B. The Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore all competition the United States alleged was harmed by the challenged conduct. Jier Shin Korea and Sang Joo Lee agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In any enforcement proceeding in which the Court finds that Jier Shin Korea or Sang Joo Lee has violated this Final Judgment, the United States may apply to the Court for a one-time extension of this Final Judgment, together with such other relief as may be appropriate. In connection with any successful effort by the United States to enforce this Final Judgment against Jier Shin Korea or Sang Joo Lee, whether litigated or resolved prior to litigation, Jier Shin Korea and Sang Joo Lee agree to reimburse the United States for the fees and expenses of its attorneys, as well as any other costs including experts' fees, incurred in connection with that enforcement effort, including in the investigation of the potential violation.

VIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire seven (7) years from the date of its entry, except that after five (5) years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court, Jier Shin Korea, and Sang Joo Lee that the continuation of the Final Judgment no longer is necessary or in the public interest.

IX. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

DATED: _____

_____

United States District Judge

Attachment 1

Settlement Agreement

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the Civil Division of the United States Department of Justice and the United States Attorney's Office for the Southern District of Ohio, on behalf of the Defense Logistics Agency (DLA) and the Army and Air Force Exchange Service (AAFES) (collectively the ''United States''), Jier Shin Korea (Jier Shin) and Sang Joo Lee, and Relator [REDACTED] (hereafter collectively referred to as ''the Parties''), through their authorized representatives.

Recitals

A. Jier Shin is a South Korea-based logistics company. Sang Joo Lee is the President of Jier Shin and a shareholder.

B. On February 28, 2018, Relator, a resident and citizen of South Korea, filed a *qui tam* action in the United States District Court for the Southern District of Ohio captioned *United States ex rel. [REDACTED]* v. *GS Caltex, et al.,* Civil Action No. [REDACTED], pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. 3730(b) (the Civil FCA Action). Relator contends that Jier Shin conspired with other South Korean entities to rig bids on Department of Defense contracts to supply fuel to U.S. military bases throughout South Korea beginning in 2005 and continuing until 2016, including DLA Post, Camps, and Stations contracts executed in 2006, 2009, 2011, and 2013, and AAFES contracts executed in 2008.

C. Jier Shin and Sang Joo Lee will execute a Stipulation with the Antitrust Division of the United States Department of Justice in which Jier Shin and Sang Joo Lee will consent to the entry of a Final Judgment to be filed in *United States* v. *Jier Shin Korea,* Civil Action No. [to be assigned] (S.D. Ohio) (the Civil Antitrust Action) that will settle any and all civil antitrust claims of the United States against Jier Shin and Sang Joo Lee arising from any act or offense committed before the date of the Stipulation that was undertaken in furtherance of an attempted or completed antitrust conspiracy involving PC&S and/or AAFES fuel supply contracts with the U.S. military in South Korea during the period 2005 through 2016.

D. The United States contends that it has certain civil claims against Jier Shin and Sang Joo Lee arising from a

conspiracy among South Korean entities to rig bids on Department of Defense contracts to supply fuel to U.S. military bases throughout South Korea beginning in 2005 and continuing to 2016, including DLA Post, Camps, and Stations contracts executed in 2006, 2009, 2011, and 2013, and AAFES contracts executed in 2008. The conduct described in in this Paragraph, as well as the conduct, actions, and claims alleged by Relator in the Civil FCA Action is referred to below as the Covered Conduct.

E. This Settlement Agreement is neither an admission of liability by Jier Shin and Sang Joo Lee nor a concession by the United States or Relator that their claims are not well founded.

F. Relator claims entitlement under 31 U.S.C. 3730(d) to a share of the proceeds of this Settlement Agreement and to Relator's reasonable expenses, attorneys' fees, and costs.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

Terms and Conditions

1. Jier Shin and Sang Joo Lee jointly and severally agree to pay to the United States five hundred thousand dollars ($500,000) by electronic funds transfer no later than ten (10) business days after the Effective Date of this Agreement pursuant to written instructions to be provided by the Civil Division of the United States Department of Justice (Initial Payment). Jier Shin and Sang Joo Lee jointly and severally agree to pay to the United States five-hundred thousand dollars ($500,000) by electronic funds transfer no later than sixty (60) days after the Effective Date of this Agreement (Second Payment). Jier Shin and Sang Joo Lee jointly and severally agree to pay to the United States five-hundred thousand dollars ($500,000) by electronic funds transfer no later than one (1) year after the Effective Date of this Agreement (Third Payment). Jier Shin and Sang Joo Lee jointly and severally agree to pay to the United States five-hundred thousand dollars ($500,000) by electronic funds transfer no later than two (2) years after the Effective Date of this Agreement (Final Payment). The sum of the Initial Payment, Second Payment, Third Payment, and Final Payment shall constitute the FCA Settlement Amount. Relator claims entitlement under 31 U.S.C. 3730(d) to Relator's reasonable expenses, attorneys' fees and costs. The FCA Settlement Amount does not include the Relator's fees and costs, and Jier Shin and Sang Joo Lee acknowledge (without waiving any applicable arguments or defenses) that Relator retains all rights to seek to recover such expenses, attorneys' fees, and costs from Jier Shin pursuant to 31 U.S.C. 3730(d).

2. Subject to the exceptions in Paragraph 4 (concerning excluded claims) below, and conditioned upon Jier Shin and Sang Joo Lee's full payment of the FCA Settlement Amount, the United States releases Sang Joo Lee and Jier Shin together with its current and former parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former corporate owners; and the corporate successors and assigns of any of them from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. 3729–3733; the Program Fraud Civil Remedies Act, 31 U.S.C. 3801–3812; Contract Disputes Act, 41 U.S.C. 7101–7109; or the common law theories of breach of contract, payment by mistake, unjust enrichment, and fraud.

3. Except as set forth in Paragraph 1 (concerning Relator's claims under 31 U.S.C. 3730(d)), and subject to the exceptions in Paragraph 4 below, and conditioned upon Sang Joo Lee and Jier Shin's full payment of the FCA Settlement Amount, Relator, on behalf of: (a) His respective heirs, successors, assigns, agents and attorneys; and (b) his companies, [REDACTED], together with their direct and indirect subsidiaries, brother or sister corporations, divisions, current or former corporate owners, and the corporate successors and assigns of any of them); hereby fully and finally releases, waives, and forever discharges Sang Joo Lee and Jier Shin, together with its direct and indirect subsidiaries, brother or sister corporations, divisions, current or former corporate owners, and the corporate successors and assigns of any of them, from: (i) Any civil monetary claim Relator has on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. 3729–3733; (ii) any claims or allegations Relator has asserted or could have asserted against Sang Joo Lee and Jier Shin arising from the Covered Conduct; and (iii) all liability, claims, demands, actions or causes of action whatsoever, whether known or unknown, fixed or contingent, in law or in equity, in contract or in tort, under any federal, Korean, or state statute or regulation or otherwise, or in common law, including claims for attorneys' fees, costs, and expenses of every kind and however denominated, that Relator would have standing to bring or which Relator may now have or claim to have against Sang Joo Lee and Jier Shin and/or its direct and indirect subsidiaries, brother or sister corporations, divisions, current or former corporate owners, and the corporate successors and assigns of any of them.

4. Notwithstanding the releases given in paragraphs 2 and 3 of this Agreement, or any other term of this Agreement, the following claims of the United States are specifically reserved and are not released:

a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);

b. Any criminal liability;

c. Except as explicitly stated in this Agreement, any administrative liability, including the suspension and debarment rights of any federal agency;

d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;

e. Any liability based upon obligations created by this Agreement;

f. Any liability of individuals other than Sang Joo Lee;

g. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;

h. Any liability for failure to deliver goods or services due; and

i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

5. Relator and his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. 3730(c)(2)(B). In connection with this Agreement and this Civil FCA Action, Relator, on behalf of himself and his heirs, successors, attorneys, agents, and assigns, agrees that neither this Agreement, nor any intervention by the United States in the Civil FCA Action in order to dismiss the Civil FCA Action, nor any dismissal of the Civil FCA Action, shall waive or otherwise affect the ability of the United States to contend that provisions in the False Claims Act, including 31 U.S.C. 3730(d)(3), bar Relator from sharing in the proceeds of this Agreement, except that the United States will not contend that Relator is barred from sharing in the proceeds of this agreement under 31 U.S.C. 3730(e)(4). Moreover, the United States and Relator, on behalf of himself and his heirs, successors, attorneys, agents, and assigns agree that they each retain all of their rights pursuant to the False Claims Act on the issue of the share percentage, if any, that Relator

should receive of any proceeds of the settlement of his claims, and that no agreements concerning Relator share have been reached to date.

6. Jier Shin and Sang Joo Lee waive and shall not assert any defenses Jier Shin and Sang Joo Lee may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

7. Jier Shin and Sang Joo Lee fully and finally release the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that Jier Shin and Sang Joo Lee have asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

8. Sang Joo Lee and Jier Shin, together with its direct and indirect subsidiaries, brother or sister corporations, divisions, current or former corporate owners, and the corporate successors and assigns of any of them, hereby fully and finally releases, waives, and forever discharges the Relator, together with his respective heirs, successors, assigns, agents and attorneys, and his companies ([REDACTED]) from any claims or allegations Jier Shin or Sang Joo Lee has asserted or could have asserted, arising from the Covered Conduct, and from all liability, claims, demands, actions or causes of action whatsoever arising from or in any manner related to the Covered Conduct, whether known or unknown, fixed or contingent, in law or in equity, in contract or in tort, under any federal, Korean, or state statute or regulation or otherwise, or in common law, including claims for attorneys' fees, costs, and expenses of every kind and however denominated, that it would have standing to bring or which Jier Shin or Sang Joo Lee may now have or claim to have against Relator and his heirs, successors, assigns, agents, and attorneys.

9. a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 CFR 31.205–47) incurred by or on behalf of Sang Joo Lee and Jier Shin, and its present or former officers, directors, employees, shareholders, and agents in connection with:

(1) The matters covered by this Agreement and any related civil antitrust agreement;

(2) the United States' audit(s) and civil and any criminal investigation(s) of the matters covered by this Agreement;

(3) Sang Joo Lee and Jier Shin's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and any criminal investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);

(4) the negotiation and performance of this Agreement and any related civil antitrust agreement;

(5) the payments that Sang Joo Lee and Jier Shin make to the United States pursuant to this Agreement and any payments that Jier Shin may make to Relator, including costs and attorneys' fees,

are unallowable costs for government contracting purposes (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by Sang Joo Lee and Jier Shin, and Sang Joo Lee and Jier Shin shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Agreement, Sang Joo Lee and Jier Shin shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by Sang Joo Lee and Jier Shin or any of its subsidiaries or affiliates from the United States. Sang Joo Lee and Jier Shin agree that the United States, at a minimum, shall be entitled to recoup from Jier Shin any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine Jier Shin's books and records and to disagree with any calculations submitted by Jier Shin or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by Jier Shin, or the effect of any such Unallowable Costs on the amount of such payments.

10. Jier Shin and Sang Joo Lee have provided sworn financial disclosure statements (Financial Statements) to the United States and the United States has relied on the accuracy and completeness of those Financial Statements in reaching this Agreement. Jier Shin and Sang Joo Lee warrant that the Financial Statements are complete, accurate, and current. If the United States learns of asset(s) in which Jier Shin and Sang Joo Lee had an interest at the time of this Agreement that were not disclosed in the Financial Statements, or if the United States learns of any misrepresentation by Jier Shin and Sang Joo Lee on, or in connection with, the Financial Statements, and if such nondisclosure or misrepresentation changes the estimated net worth set forth in the Financial Statements by $100,000 or more, the United States may at its option: (a) Rescind this Agreement and file suit based on the Covered Conduct, or (b) let the Agreement stand and collect the full Settlement Amount plus one hundred percent (100%) of the value of the net worth of Jier Shin and Sang Joo Lee previously undisclosed. Jier Shin and Sang Joo Lee agree not to contest any collection action undertaken by the United States pursuant to this provision, and immediately to pay the United States all reasonable costs incurred in such an action, including attorney's fees and expenses. The United States agrees to notify Relator if the United States invokes either of its options pursuant to this paragraph. Nothing in this agreement shall be interpreted as a waiver of Relator's right to request a share of any proceeds collected by the United States pursuant to this paragraph.

11. In the event that the United States, pursuant to Paragraph 10 (concerning disclosure of assets), above, opts to rescind this Agreement, Jier Shin and Sang Joo Lee agree not to plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any civil or administrative claims that (a) are filed by the United States within 60 calendar days of written notification to Jier Shin and Sang Joo Lee that this Agreement has been rescinded, and (b) relate to the Covered Conduct, except to the extent these defenses were available on the Effective Date of this Agreement.

12. Sang Joo Lee and Jier Shin agree to cooperate fully and truthfully with the United States in connection with the Civil FCA Action. Sang Joo Lee and Jier Shin's ongoing, full, and truthful cooperation shall include, but not be limited to:

a. Upon request by the United States with reasonable notice, producing at the offices of counsel for the United States in Washington, DC and not at the expense of the United States, complete

and un-redacted copies of all non-privileged documents related to the Covered Conduct wherever located in Sang Joo Lee and Jier Shin's possession, custody, or control, including but not limited to, reports, memoranda of interviews, and records concerning any investigation of the Covered Conduct that Sang Joo Lee and Jier Shin have undertaken, or that has been performed by another on Sang Joo Lee and Jier Shin's behalf;

b. upon request by the United States with reasonable notice, making Hyun Dae Shin, Sang Joo Lee, and current Jier Shin directors, officers, and employees available for interviews, consistent with the rights and privileges of such individuals, by counsel for the United States and/or their investigative agents, not at the expense of the United States, in the United States or Taiwan, unless another place is mutually agreed upon;

c. upon request by the United States with reasonable notice, (i) using best efforts to assist in locating former Jier Shin directors, officers, and employees identified by attorneys and/or investigative agents of the United States, and (ii) using best efforts to make any such former Jier Shin directors, officers, and employees available for interviews, consistent with the rights and privileges of such individuals, by counsel for the United States and/or their investigative agents, not at the expense of the United States, in the United States or Taiwan, unless another place is mutually agreed upon; and

d. upon request by the United States with reasonable notice, making Hyun Dae Shin, Sang Joo Lee, and current Jier Shin directors, officers, and employees available, and using best efforts to make former Jier Shin directors, officers, employees available, to testify, consistent with the rights and privileges of such individuals, fully, truthfully, and under oath, without falsely implicating any person or withholding any information, (i) at depositions in the United States, Taiwan, or any other mutually agreed upon place, (ii) at trial in the United States, (iii) at any other judicial proceedings wherever located related to the Civil FCA Action, and (iv) by declaration or affidavit executed in compliance with 28 U.S.C. 1746.

13. This Agreement is intended to be for the benefit of the Parties only.

14. Upon receipt of the Initial Payment of the FCA Settlement Amount described in Paragraph 1 above, the United States and Relator shall promptly sign and file a Joint Stipulation of Dismissal, with prejudice, of the claims filed against Jier Shin in the Civil FCA Action, pursuant to Rule 41(a)(1), which dismissal shall be subject to the terms of this Agreement, including full payment of the FCA Settlement Amount, and conditioned on the Court retaining jurisdiction over Relator's claims to a relator's share and recovery of attorneys' fees and costs pursuant to 31 U.S.C. 3730(d).

15. Except with respect to payment (if any) by Jier Shin of Relator's attorneys' fees, expenses, and costs pursuant to 31 U.S.C. 3730(d), each Party shall bear its own legal and other costs incurred in connection with this matter. The Parties agree that Relator, Jier Shin, and Sang Joo Lee will not seek to recover from the United States any costs or fees related to the preparation and performance of this Agreement.

16. Each party and signatory to this Agreement represents that it freely and voluntarily enters in to this Agreement without any degree of duress or compulsion.

17. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Southern District of Ohio. Jier Shin and Sang Joo Lee agree that the United States District Court for the Southern District of Ohio has jurisdiction over it for purposes of this Agreement. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

18. This Agreement constitutes the complete agreement between the Parties on the subject matters addressed herein. This Agreement may not be amended except by written consent of the Parties.

19. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

20. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

21. This Agreement is binding on Sang Joo Lee and Jier Shin's successors, transferees, heirs, and assigns.

22. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

23. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public, as permitted by order of the Court. This Agreement shall not be released in un-redacted form until the Court unseals the entire Civil FCA Action.

24. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

Dated: _____

By: _____

Andrew A. Steinberg,
Trial Attorney, Commercial Litigation Branch, Civil Division, U.S. Department of Justice.

Dated: _____

By: _____

Mark T. D'Alessandro,
Civil Chief.

Andrew Malek,
Assistant United States Attorney, U.S. Attorney's Office for the Southern District of Ohio.

JIER SHIN KOREA

Dated: _____

By: _____

Sang Joo Lee,
Authorized Representative of Jier Shin Korea.

Dated: _____

By: _____

Mark Rosman,
Counsel for Jier Shin Korea.

SANG JOO LEE

Dated: _____

By: _____

Sang Joo Lee

Dated: _____

By: _____

Mark Rosman,
Counsel for Sang Joo Lee.

RELATOR [REDACTED]

Dated: _____

By: _____

[REDACTED]

Dated: _____

By: _____

Eric R. Havian,
Constantine Cannon LLP, Counsel for Relator.

United States District Court for the Southern District of Ohio Eastern Division

United States of America, Plaintiff, v. *Jier Shin Korea Co., Ltd.,* and *Sang Joo Lee,* Defendants.

Case No. 2:20–cv–1788

Competitive Impact Statement

The United States of America, under Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (the ''APPA'' or ''Tunney Act''), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On April 8, 2020, the United States filed a civil antitrust complaint against

Defendants Jier Shin Korea Co., Ltd. (''Jier Shin Korea'') and Sang Joo Lee alleging that Defendants violated Section 1 of the Sherman Act, 15 U.S.C. 1. From at least March 2005 and continuing until at least October 2016 (''the Relevant Period''), Defendants and their co-conspirators conspired to fix prices and rig bids for the supply of fuel to the U.S. military for its operations in South Korea. As a result of this illegal conduct, Defendants and their co-conspirators overcharged American taxpayers by well over $100 million.

At the same time the Complaint was filed, the United States also filed an agreed-upon proposed Final Judgment that would remedy Defendants' violation by having Jier Shin Korea and Sang Joo Lee jointly and severally pay $2,000,000 to the United States. This payment resolves the civil claims of the United States against Defendants related to the conduct described in the Complaint. The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment will terminate this action, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. Defendants

Jier Shin Korea is a small, privately held logistics company located in Seoul, South Korea. Sang Joo Lee is the president of Jier Shin Korea. Jier Shin Korea is a closely held firm majority owned by Lee and his family. Jier Shin Korea provides logistics services related to the transportation of fuel, petroleum by-products, and other goods. During the conspiracy, Jier Shin Korea partnered with a South Korean oil refiner, Hyundai Oilbank Co., Ltd. (''Hyundai Oilbank''), to supply fuel to U.S. military installations in South Korea, with Jier Shin Korea acting as the prime contractor under the relevant contracts.

Other persons, not named as defendants in this action, participated as co-conspirators in the violation alleged in the Complaint and performed acts and made statements in furtherance thereof. These co-conspirators included, among others, GS Caltex Corporation (''GS Caltex''), Hanjin Transportation Co., Ltd. (''Hanjin''), SK Energy Co., Ltd. (''SK Energy''), Hyundai Oilbank, and S-Oil Corporation (''S-Oil'').

On December 12, 2018, GS Caltex, Hanjin, and SK Energy pleaded guilty to an information charging a criminal violation of Section 1 of the Sherman Act for this unlawful conduct. *See United States* v. *GS Caltex Corporation,* No. 2:18–cr–240 (S.D. Ohio, filed November 14, 2018); *United States* v. *Hanjin Transportation Co., Ltd.,* No. 2:18–cr–241 (S.D. Ohio, filed November 14, 2018); *United States* v. *SK Energy Company,* No. 2:18–cr–239 (S.D. Ohio, filed November 14, 2018). GS Caltex, Hanjin, and SK Energy have also settled civil claims brought by the United States in a separately filed civil action relating to the same conduct. *See United States* v. *GS Caltex Corp. et al.,* No. 2:18–cv–1456 (S.D. Ohio, filed November 14, 2018).

On March 20, 2019, Hyundai Oilbank and S-Oil pleaded guilty to Count One of a Superseding Indictment charging a criminal violation of Section 1 of the Sherman Act for this unlawful conduct. *See United States* v. *Kim et al.,* No. 2:18–cr–152 (S.D. Ohio, filed September 27, 2018). Hyundai Oilbank and S-Oil have also settled civil claims brought by the United States in a separately filed civil action relating to the same conduct. *See United States* v. *Hyundai Oilbank and S-Oil Corp.,* No. 2:19–cv–01037 (S.D. Ohio, filed March 20, 2019).

B. PC&S and AAFES Contracts

The United States military procures fuel for its installations in South Korea through competitive solicitation processes. Oil companies, either independently or with a transportation company, submitted bids in response to these solicitations.

The conduct at issue in this action relates to two types of contracts to supply fuel to the U.S. military in South Korea: Post, Camps, and Stations (''PC&S'') contracts and Army and Air Force Exchange Services (''AAFES'') contracts.

PC&S contracts are issued and administered by the Defense Logistics Agency (''DLA''), a combat support agency of the U.S. Department of Defense. The fuel procured under PC&S contracts is used to power military vehicles and heat U.S. military buildings. During the Relevant Period, DLA issued PC&S solicitations listing the fuel requirements for installations across South Korea, with each delivery location identified by a separate line item. Bidders submitted initial bids, offering a price for each line item on which they chose to bid. After DLA reviewed the initial bids, bidders were allowed to submit revised final bids. DLA reviewed the bids and awarded contracts to the bidders offering the lowest price for each line item. Payments under the PC&S contracts were wired to the awardees by a finance and accounting agency of the U.S. Department of Defense from its office in Columbus, Ohio.

AAFES is an agency of the Department of Defense headquartered in Dallas, Texas. AAFES operates official retail stores (known as ''exchanges'') on U.S. Army and Air Force installations worldwide, which U.S. military personnel and their families use to purchase everyday goods and services, including gasoline for use in their personal vehicles. AAFES procures fuel for these stores via contracts awarded through a competitive solicitation process.

In 2008, AAFES issued a solicitation that listed the fuel requirements for installations in South Korea. Bidders submitted bids offering a price for each line item in the solicitation. Unlike DLA, AAFES awarded the entire 2008 contract to the bidder offering the lowest price across all the listed locations.

C. The Alleged Violation

The Complaint alleges that Defendants and their co-conspirators engaged in a series of meetings, telephone conversations, emails, and other communications to rig bids and fix prices for the supply of fuel to U.S. military installations in South Korea under several PC&S and AAFES contracts.

First, the Complaint alleges that GS Caltex, SK Energy, Hyundai Oilbank, and Jier Shin Korea (including by, through, and with the knowledge of, its president Sang Joo Lee) conspired to rig bids and fix prices on the contracts issued in response to DLA solicitations SP0600–05–R–0063 and SP0600–05–R–0063–0001 (''2006 PC&S contracts''). The term of the 2006 PC&S contracts covered the supply of fuel from February 2006 through July 2009.

The Complaint alleges that between early 2005 and mid-2006, GS Caltex, SK Energy, Hyundai Oilbank, and Jier Shin Korea met multiple times and exchanged phone calls and emails to allocate the line items in the solicitations for the 2006 PC&S contracts. Through such communications, these conspirators agreed to inflate their bids to produce larger profit margins. For each line item allocated to a different co-conspirator, the other conspirators agreed not to bid or to bid high enough to ensure that they would not win that item. DLA awarded the 2006 PC&S line items according to the allocations made by the conspiracy.

Second, the Complaint alleges that, as part of their discussions related to the 2006 PC&S contracts, GS Caltex, Hyundai Oilbank, and Jier Shin Korea agreed not to compete with SK Energy in bidding for the June 2008 AAFES solicitation (''2008 AAFES contract''). The initial term of the 2008 AAFES contract ran from July 2008 to July 2010; the contract was later extended through July 2013.

Third, the Complaint alleges that Jier Shin Korea and other co-conspirators conspired to rig bids and fix prices for the contracts issued in response to DLA solicitation SP0600–08–R–0233 (''2009 PC&S contracts''). Hanjin and S-Oil joined the conspiracy for the purpose of bidding on SP0600–08–R–0233. The term of the 2009 PC&S contracts covered the supply of fuel from October 2009 through August 2013.

The Complaint explains that between late 2008 and mid-2009, Jier Shin Korea and other co-conspirators met multiple times and exchanged phone calls and emails to allocate the line items in the solicitation for the 2009 PC&S contracts. As in 2006, these conspirators agreed to bid high so as to not win line items allocated to other co-conspirators. The original conspirators agreed to allocate to Hanjin and S-Oil certain line items that had previously been allocated to the original conspirators.

Finally, the Complaint alleges that Jier Shin Korea and other co-conspirators once again conspired to rig bids and fix prices for the contracts issued in response to DLA solicitation SP0600–12–R–0332 (''2013 PC&S contracts''). The term of the 2013 PC&S contracts covered the supply of fuel from August 2013 through July 2016.

The Complaint explains that Jier Shin Korea and other co-conspirators communicated via phone calls and emails to allocate and set the price for each line item in the solicitation for the 2013 PC&S contracts. Jier Shin Korea and other co-conspirators believed that they had an agreement as to their bidding strategy and pricing for the 2013 PC&S contracts. As a result of this agreement, they submitted bids with pricing above what they would have offered absent collusion.

Hanjin and S-Oil submitted bids for the 2013 PC&S contracts below the prices set by the other co-conspirators, however. Although lower than the pricing agreed upon by the conspirators, Hanjin and S-Oil still submitted bids above a competitive, non-collusive price, knowing that they would likely win the contracts because the other conspirators would bid even higher prices.

III. Explanation of the Proposed Final Judgment

For violations of Section 1 of the Sherman Act, the United States may seek damages, 15 U.S.C. 15a, and equitable relief, 15 U.S.C. 4, including equitable monetary remedies. *See United States* v. *KeySpan Corp.,* 763 F. Supp. 2d 633, 638–641 (S.D.N.Y. 2011).

This action is related to three civil actions based on the same facts alleged in the Complaint and filed in the United States District Court for the Southern District of Ohio: (1) *United States* v. *GS Caltex Corp. et al.,* No. 2:18–cv–1456, which seeks recovery from one set of co-conspirators; (2) *United States* v. *Hyundai Oilbank Co., Ltd. et al.,* No 2:19–cv–1037, which seeks recovery from a different set of co-conspirators; and (3) a *qui tam* action currently filed under seal, alleging a violation of the False Claims Act, 31 U.S.C. 3730.

A. Payment and Cooperation

The proposed Final Judgment requires Jier Shin Korea and Sang Joo Lee jointly and severally to pay $2,000,000 to the United States in three installments: The first installment of $1,000,000 is due within 10 business days of entry of the Final Judgment; the second installment of $500,000 is due within one year of the entry of the Final Judgment; and the third installment of $500,000 is due within two years of the entry of the Final Judgment. These payments will satisfy all civil claims arising from the events described in Section II *supra* that the United States has against Defendants under Section 1 of the Sherman Act and under the False Claims Act. The resolution of the United States' claims under the False Claims Act is set forth in a separate agreement reached between Defendants, the U.S. Attorney's Office for the Southern District of Ohio, and the U.S. Department of Justice's Civil Division. *See* Attachment 1 of the proposed Final Judgment.

As a result of the unlawful agreements in restraint of trade between Defendants and their co-conspirators, the United States paid more for the supply of fuel to U.S. military installations in South Korea than it would have if the companies had engaged in fair and honest competition. Defendants' payments under the proposed Final Judgments compensate the United States for a portion of the losses it suffered as a result of the conspiracy. In addition to the payment of damages, the proposed Final Judgment also requires Defendants to cooperate with the United States regarding any ongoing civil investigation, litigation, or other proceeding arising out of any ongoing federal investigation of the subject matter discussed in the Complaint. To assist with these proceedings, Defendants are required to provide all non-privileged information in their possession, make available Jier Shin Korea's present employees (including Lee), and use best efforts to make available Jier Shin Korea's former employees, for interviews or testimony, as requested by the United States.

Under Section 4A of the Clayton Act, the United States is entitled to treble damages for injuries it has suffered as a result of violations of the Sherman Act. The United States agreed to accept the damages amount from Defendants based on several considerations. First, the United States considered how much Defendants individually profited from the conspiracy. Second, the United States considered the risks of pursuing contested litigation and obtaining recovery from Defendants. Third, the United States considered the cooperation and assistance offered by the Defendants to date. Under an ongoing agreement to cooperate entered into at an early stage of the United States' investigation of the bid rigging activity, Defendants have provided and continue to provide information that has benefited the United States' civil investigations. This information and cooperation assisted the United States in obtaining settlements from Defendants' co-conspirators totaling over $205 million—substantially more than the total damages suffered by the United States as a result of the conspiracy. Finally, the amount reflects the Defendants' demonstration, through the submission of extensive financial information, that they are unable to pay the full amount of damages to which the United States is entitled. The proposed Final Judgment specifies that if the United States discovers any material misrepresentation in these financial statements, the United States may recover the full amount by which the Defendants understated their ability to pay, plus the United States' attorneys fees and costs associated with obtaining such additional recovery.

The proposed Final Judgment also requires Jier Shin Korea to appoint an Antitrust Compliance Officer and to institute an antitrust compliance program. Under the antitrust compliance program, employees and directors of Jier Shin Korea must undergo training and all employees must be informed that there will no reprisal for disclosing to the Antitrust Compliance Officer any potential violations of the United States antitrust laws. The Antitrust Compliance Officer is required annually to certify to the

United States that Jier Shin Korea is in compliance with this requirement.

B. Enforcement of Final Judgment

The proposed Final Judgment contains provisions designed to promote compliance and make the enforcement of the Final Judgment as effective as possible. Paragraph VII(A) provides that the United States retains and reserves all rights to enforce the provisions of the proposed Final Judgment, including its rights to seek an order of contempt from the Court. Defendants have agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of the Final Judgment, the United States may establish the violation and the appropriateness of any remedy by a preponderance of the evidence and that Defendants have waived any argument that a different standard of proof should apply. This provision aligns the standard for compliance obligations with the standard of proof that applies to the underlying offense that the compliance commitments address.

Paragraph VII(B) provides additional clarification regarding the interpretation of the provisions of the proposed Final Judgment. The proposed Final Judgment was drafted to restore competition the United States alleged was harmed by Defendants' challenged conduct. Defendants agree that they will abide by the proposed Final Judgment, and that they may be held in contempt of this Court for failing to comply with any provision of the proposed Final Judgment that is stated specifically and in reasonable detail, as interpreted in light of this procompetitive purpose.

Paragraph VII(C) of the proposed Final Judgment provides that if the Court finds in an enforcement proceeding that a Defendant has violated the Final Judgment, the United States may apply to the Court for a one-time extension of the Final Judgment, together with such other relief as may be appropriate. In addition, to compensate American taxpayers for any costs associated with investigating and enforcing violations of the proposed Final Judgment, Paragraph VII(C) provides that in any successful effort by the United States to enforce the Final Judgment against a Defendant, whether litigated or resolved before litigation, that Defendants will reimburse the United States for attorneys' fees, experts' fees, and other costs incurred in connection with any enforcement effort, including the investigation of the potential violation.

Finally, Section VIII of the proposed Final Judgment provides that the Final Judgment will expire seven years from the date of its entry, except that after five years from the date of its entry, the Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the continuation of the Final Judgment is no longer necessary or in the public interest.

IV. Remedies Available to Potential Private Litigants

Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damages action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the U.S. Department of Justice, and the United States remains free to withdraw its consent to the proposed Final Judgment at any time before the Court's entry of the Final Judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet website and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted by mail to: Robert A. Lepore, Chief, Transportation, Energy & Agriculture Section, Antitrust Division, United States Department of Justice, 450 5th Street NW, Suite 8000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

As an alternative to the proposed Final Judgment, the United States considered a full trial on the merits against Defendants. The United States is satisfied, however, that the relief in the proposed Final Judgment remedies the violation of the Sherman Act alleged in the Complaint. The proposed Final Judgment represents substantial monetary relief while avoiding the time, expense, and uncertainty of a full trial on the merits. Further, Defendants' cooperation with the civil investigation and any potential litigation will enhance the ability of the United States to resolve issues related to the civil investigation and any potential litigation.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

(A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the

defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *United States* v. *U.S. Airways Grp., Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the ''court's inquiry is limited'' in Tunney Act settlements); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that a court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable'').

As the U.S. Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government's complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may ''not to make de novo determination of facts and issues.'' *United States* v. *W. Elec. Co.,* 993 F.2d 1572, 1577 (D.C. Cir. 1993) (quotation marks omitted); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Instead, ''[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General.'' *W. Elec. Co.,* 993 F.2d at 1577 (quotation marks omitted). ''The court should bear in mind the *flexibility* of the public interest inquiry: The court's function is not to determine whether the resulting array of rights and liabilities is one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest.'' *Microsoft,* 56 F.3d at 1460 (quotation marks omitted). More demanding requirements would ''have enormous practical consequences for the government's ability to negotiate future settlements,'' contrary to congressional intent. *Id.* at 1456. ''The Tunney Act was not intended to create a disincentive to the use of the consent decree.'' *Id.*

The United States' predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g., Microsoft,* 56 F.3d at 1461 (recognizing courts should give ''due respect to the Justice Department's . . . view of the nature of its case''); *United States* v. *Iron Mountain, Inc.,* 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (''In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'') (internal citations omitted); *United States* v. *Republic Servs., Inc.,* 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting ''the deferential review to which the government's proposed remedy is accorded''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (''A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case''). The ultimate question is whether ''the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.' '' *Microsoft,* 56 F.3d at 1461 (*quoting W. Elec. Co.,* 900 F.2d at 309).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60.

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using consent judgments proposed by the United States in antitrust enforcement, Public Law 108–237 § 221, and added the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language explicitly wrote into the statute what Congress intended when it first enacted the Tunney Act in 1974. As Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). ''A court can make its public interest determination based on the competitive impact statement and response to public comments alone.'' *U.S. Airways,* 38 F. Supp. 3d at 76 (citing *Enova Corp.,* 107 F. Supp. 2d at 17).

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: April 8, 2020.

Respectfully submitted,

David M. Devillers,
United States Attorney.

/s/ Andrew M. Malek,

(Ohio Bar #0061442), *Assistant United States Attorney, 303 Marconi Boulevard, Suite 200 Columbus, Ohio 43215, Tel: (614) 469–5715, Fax: (614) 469–2769, Email: Andrew.Malek@usdoj.gov.*

/s/ J. Richard Doidge,

Attorney U.S. Department of Justice, Antitrust Division, 450 5th Street NW, Suite 8000, Washington, DC 20530, Tel: (202) 514–8944, Fax: (202) 616–2441, Email: Dick.Doidge@usdoj.gov.

[FR Doc. 2020–08138 Filed 4–16–20; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Settlement Agreement Under the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, and Emergency Planning and Community Right-to-Know Act

On April 13, 2020, the Department of Justice lodged a proposed Stipulation of Settlement and Order (''Agreement'') with the United States District Court for the District of Puerto Rico in the lawsuit entitled *United States* v. *TAPI Puerto Rico, Inc.,* Civil Action No. 3:20–cv–01178.

In this action, the United States filed a Complaint alleging that TAPI Puerto Rico, Inc. (''TAPI'') violated various provisions of the Clean Air Act (''CAA''), 42 U.S.C. 7401 *et seq.,* the Clean Water Act (''CWA''), 33 U.S.C. 1251 *et seq.,* the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6901 *et seq.,* and the Emergency Planning and Community Right-to-Know Act (''EPCRA''), 42 U.S.C. 11001 *et seq.,* at its pharmaceutical manufacturing facility in Guayama, Puerto Rico (the ''Facility''). The Complaint alleges that TAPI failed to comply with the CAA's provisions governing the emission of hazardous air pollutants (''HAPs'') from its pharmaceutical production process and hazardous waste equipment, in violation of Sections 112, 502 and 504 of the CAA, 42 U.S.C. 7412, 7661a, and 7661c, and EPA's implementing regulations; discharged wastewater to the local publicly owned treatment works without abiding by its industrial discharge permit requirements, in violation of Section 307 of the CWA, 33 U.S.C. 1317, and EPA's implementing regulations; stored hazardous waste in tanks, containers and an aeration basin either without a RCRA permit or in violation of its permit, failed to comply with its RCRA permit record-keeping obligations, failed to meet the permit exemptions for its less than 90-day storage tanks, and failed to comply with its RCRA permit obligation to minimize risk of releases of hazardous waste, all in violation of Section 3005 of RCRA, 42 U.S.C. 6925, and EPA's implementing regulations; and failed to timely submit a Toxic Release Inventory report form to EPA for calendar years 2010 and 2011, in violation of Section 313 of EPCRA, 42 U.S.C. 11023, and EPA's implementing regulations. The Complaint seeks the imposition of civil penalties for these violations.

Pursuant to the proposed Agreement, TAPI will pay a penalty in the amount of $539,784. The proposed Agreement resolves the civil claims of the United States for the violations alleged in the Complaint through the date of lodging of the Stipulation.

The publication of this notice opens a period for public comment on the Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *TAPI Puerto Rico, Inc.,* No. 3:20–cv–01178 (D.P.R.), D.J. Ref. No. 90–5–2–1–11448. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Agreement may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Agreement upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $3.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2020–08132 Filed 4–16–20; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *William Case, Bill Case Farms, Inc., and Case Family, LLC,* Civil Action No. 6:16–cv–00328–AA, was lodged with the United States District Court for the District of Oregon on April 8, 2020.

This proposed Consent Decree concerns a complaint filed by the United States against William Case, Bill Case Farms, Inc., and Case Family, LLC, pursuant to Clean Water Act Section 309, 33 U.S.C. 1319, to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendants to restore the impacted areas, perform mitigation, and pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Kent E. Hanson, United States Department of Justice, Environment and Natural Resources Division, Environmental Defense Section, Post Office Box 7611, Washington, DC 20044–7611, and refer to *United States* v. *William Case, et al.,* DJ # 90–5–1–1–19671.

The proposed Consent Decree may be examined electronically at *http://www.justice.gov/enrd/consent-decrees.* Upon request, an electronic copy of the proposed Consent Decree may be sent by email. Please send your request to *kent.hanson@usdoj.gov.*

Cherie Rogers,

Assistant Section Chief,Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2020–08079 Filed 4–16–20; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request; Leasing

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: The National Credit Union Administration (NCUA), as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following extension of a currently approved collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before June 16, 2020 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collection to Mackie Malaka, National Credit Union Administration, 1775 Duke Street, Suite 6060, Alexandria, Virginia 22314; Fax

No. 703–519–8579; or email at *PRAComments@NCUA.gov.*

FOR FURTHER INFORMATION CONTACT: Address requests for additional information to Mackie Malaka at the address above or telephone 703–548–2704.

SUPPLEMENTARY INFORMATION: *OMB Number:* 3133–0151.

Title: Leasing, 12 CFR part 714.

Type of Review: Extension of a currently approved collection.

Abstract: Section 714.5 of NCUA's Regulations requires a federal credit union engaged in leasing to obtain or have on file financial documentation demonstrating that the guarantor of an estimated residual value has the resources to meet the guarantee. Estimated residual value is the projected future value of leased property at lease end. The accuracy of the estimated residual values used in a lease program is a fundamental element in the success or failure of a lease program. The higher the estimated residual values used by a federal credit union, the greater the potential for loss. To mitigate this risk, the leasing rule requires that if the amount of the estimated residual value relied on by the federal credit union to satisfy the full payout lease requirement exceeds 25 percent of the original cost of the leased property, the credit union must obtain a guarantee of the excess from a financially capable party. If the guarantor cannot meet its guarantee, a federal credit union may suffer serious financial loss. Accordingly, it is important that a federal credit union documents that a guarantor has the financial resources and capability to meet the guarantee. If the guarantor is an insurance company, the federal credit union may satisfy this record keeping requirement by obtaining and maintaining information demonstrating that the insurance company has a rating equivalent to a B+ or better from a major rating company.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated No. of Respondents: 68.

Estimated No. of Responses per Respondent: 5.

Estimated Total Annual Responses: 340

Estimated Burden Hours per Response: 2.

Estimated Total Annual Burden Hours: 680.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper execution of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on April 14, 2020.

Dated: April 14, 2020.

Mackie I. Malaka,

NCUA PRA Clearance Officer.

[FR Doc. 2020–08188 Filed 4–16–20; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0239]

Information Collection: NRC CUI Program Challenge Request Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on this proposed collection of information. The information collection is entitled, ''NRC CUI Program Challenge Request Process.''

DATES: Submit comments by June 16, 2020. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2019–0239. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0239 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 *http://www.regulations.gov* and search for Docket ID NRC–2019–0239. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2019–0239 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 *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then 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.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML19317D847. The draft OMB Supporting Statement for NRC CUI Program Challenge Request Form is available in ADAMS under Accession ML19317D721.
- *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

Please include Docket ID NRC–2019–0239 in the subject line of your comment submission, in order to ensure that the NRC is able to make your

comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* NRC CUI Program Challenge Request
2. *OMB approval number:* 3150–XXXX.
3. *Type of submission:* New.
4. *The form number, if applicable:* N/A.
5. *How often the collection is required or requested:* On occasion.
6. *Who will be required or asked to respond:* Authorized holders, including any individual or organization who has been provided with CUI and has a lawful government purpose to possess CUI.
7. *The estimated number of annual responses:* 12.
8. *The estimated number of annual respondents:* 12.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 18.
10. *Abstract:*

The NRC CUI Program Challenge Request Process, also referred to as the ''CUI Challenge Request Process'' in this document, provides the process used for NRC Controlled Unclassified Information (CUI) authorized holders to challenge the designation of information that has been marked as CUI as improperly or incorrectly designated. government purpose to possess the information. Any authorized holder who believes that the designation of specific information as CUI is improper or incorrect, or who believes they have received unmarked CUI, may use this process to formally notify the NRC CUI Senior Agency Official (SAO). The process also allows for the NRC CUI SAO and CUI Program Manager to process such requests and to issue a Final Decision from the CUI SAO.

The CUI Challenge Request Process is not intended to be used to address all disagreements regarding the proper designation of CUI. Authorized holders are encouraged to seek or utilize less formal means when resolving internal good faith disputes over the proper designation of information as CUI, such as discussion with the creator or designator of the information in dispute. Where resolution cannot be achieved through less formal means, the CUI challenge request process is available.

The CUI Challenge Request Process does not supersede any obligations under law or NRC policy to report information spills.

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 14, 2020.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2020–08130 Filed 4–16–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0057]

Standard Format and Content of Safeguards Contingency Plans for Transportation

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing Regulatory Guide (RG) 5.56, ''Standard Format and Content of Safeguards Contingency Plans for Transportation.'' RG 5.56 is being withdrawn because it contains regulatory guidance that is out of date and not currently necessary.

DATES: The withdrawal of RG 5.56 takes effect on April 17, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0057 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–2020–0057. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The basis for withdrawal of RG 5.56 is available in ADAMS under Accession No. ML20030A085.

FOR FURTHER INFORMATION CONTACT: Albert N. Tardiff, telephone: 301–287–3613, email: *Al.Tardiff@nrc.gov,* or Mekonen Bayssie, telephone: 301–415–1699, email: *Mekonen.Bayssie@nrc.gov;* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Background

RG 5.56 was published for comment in March 1978 to provide guidance on the development of safeguards contingency plans for transportation. This guide supports meeting NRC physical protection requirements for transportation of special nuclear material (SNM). In addition, it supports meeting the NRC licensing requirements to transport formula quantities of strategic SNM (also referred to as Category I quantities of strategic SNM).

The NRC is withdrawing RG 5.56, ''Standard Format and Content of Safeguards Contingency Plans for Transportation,'' because the guide no

longer provides methods that the NRC staff finds acceptable to meet the NRC's regulatory requirements.

As a matter of agreement, the U.S. Department of Energy (DOE) currently transports Category I quantities of strategic SNM using its own guidance. This is expected to continue into the foreseeable future. The NRC's regulatory requirements for transportation security of this material are still in place. However, these requirements have not been updated for the current threat environment. Moreover, given the lack of any private transport of these materials, no post-9/11 security orders were developed to address contingency plans for transportation. Therefore, the NRC staff considers RG 5.56 to be outdated and is not satisfactory for developing contingency plans for the transportation of Category I strategic SNM in the future.

It may be possible for the staff to update the guidance to make it useful for potential future use; however, the staff concludes that the expenditure of resources to revise the guide is neither necessary nor warranted. If an NRC licensee or applicant proposed to transport Category I quantities of strategic SNM today without DOE, the staff would evaluate the need for additional physical protection, given the current threat environment, and provide approval to the licensee or applicant, as appropriate, on a case-by-case basis. The likelihood of such a proposal is expected to be remote. Other general NRC guidance on the development of contingency plans can be found in NUREG/CR–6667, ''Standard Review Plan for Safeguards Contingency Response Plans for Category I Fuel Facilities,'' and such guidance could be useful in developing a contingency plan for transportation of Category I quantities of SNM.

II. Further Information

The withdrawal of RG 5.56 does not alter any prior or existing NRC licensing approval, or the acceptability of licensee commitments made regarding the withdrawn guidance. Although RG 5.56 is withdrawn, current licensees referencing this RG may continue to do so, and withdrawal does not affect any existing licenses or agreements. However, by withdrawing RG 5.56, the NRC no longer approves use of the guidance in future requests or applications for NRC licensing actions.

Dated: April 14, 2020.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2020–08158 Filed 4–16–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0181]

Standard Format and Content for Applications to Renew Nuclear Power Plant Operating Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 2 to Regulatory Guide (RG) 1.188, ''Standard Format and Content for Applications to Renew Nuclear Power Plant Operating Licenses.'' This RG describes the standard format and content that the NRC staff considers acceptable for applications for renewal and subsequent renewal of operating licenses for commercial nuclear power plants.

DATES: Revision 2 to RG 1.188 is available on April 17, 2020.

ADDRESSES: Please refer to Docket ID NRC–2019–0181 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0181. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* Revision 2 to RG 1.188 and the regulatory analysis may be found in ADAMS under Accession Nos. ML20017A265 and ML19213A343, respectively.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Bennett Brady, telephone: 301–415–2981, email: *Bennett.Brady@nrc.gov,* Amy Hull, telephone: 301–415–2435, email: *Amy.Hull@nrc.gov,* and Michael Eudy, telephone: 301–415–3104, email: *Michael.Eudy@nrc.gov.* All are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

Revision 2 of RG 1.188 was issued with a temporary identification of Draft Regulatory Guide, DG–1341. Revision 2 of RG 1.188 broadens the scope of the guide to include subsequent license renewal. Revision 2 of the guide endorses two industry guidance documents that describe methods that the staff of the NRC considers acceptable for use in preparing applications for license renewal and subsequent license renewal.

Specifically, this revision endorses Nuclear Energy Institute (NEI) 17–01, ''Industry Guideline for Implementing the Requirements of 10 CFR part 54 for Subsequent License Renewal'' (ADAMS Accession No. ML17339A599), which provides an acceptable approach for implementing the requirements of title 10 of the *Code of Federal Regulations* (10 CFR) part 54, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants,'' for subsequent license renewal. The guidance in NEI 17–01 is consistent with previously published NRC guidance. Among this guidance, in particular, NUREG–2191, Volumes 1 and 2, ''Generic Aging Lessons Learned for Subsequent License Renewal (GALL–SLR) Report,'' and NUREG–2192, ''Standard Review Plan for Review of Subsequent License Renewal Applications for Nuclear Power Plants—Final Report,'' (ADAMS Accession Nos. ML17187A031, ML17187A204 and ML17188A158). Both NUREG–2191 and NUREG–2192 underwent significant public interaction

and extensive review by the Advisory Committee on Reactor Safeguards.

The RG applies to holders of operating licenses under 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities.'' The RG could also apply to holders of combined licenses under 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.'' However, because no combined license holder is expected to use this RG for at least two decades, the NRC is not expanding the RG's applicability to combined license holders at this time.

II. Additional Information

The NRC published a notice of the availability of DG–1341 in the **Federal Register** on September 17, 2019 (84 FR 48953) for a 30-day public comment period. The public comment period closed on October 17, 2019. Public comments on DG–1341 and the staff responses to the public comments are available in ADAMS under Accession No. ML20017A259.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting, Forward Fitting, and Issue Finality

Revision 2 of RG 1.188 describes one acceptable method for demonstrating compliance with 10 CFR part 54 for applicants for nuclear power plant license renewal and subsequent license renewal. This RG would not constitute backfitting as defined in 10 CFR 50.109, ''Backfitting'' and as described in NRC Management Directive 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests'' (ADAMS Accession No. ML18093B087); would not affect the issue finality of any approval issued under 10 CFR part 52; and would not constitute forward fitting as that term is defined and described in Management Directive 8.4. Existing licensees and applicants for license renewal or subsequent license renewal will not be required to comply with the positions set forth in this RG. Further information on the staff's use of the RG is contained in the RG under Section D., ''Implementation.''

Dated: April 13, 2020.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2020–08134 Filed 4–16–20; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020–115 and CP2020–122]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 21, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2020–115 and CP2020–122; *Filing Title:* USPS Request to Add Priority Mail Contract 605 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 13, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* April 21, 2020.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2020–08135 Filed 4–16–20; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2020–120; Order No. 5479]

Competitive Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is acknowledging a recent filing by the Postal Service of specific rates for its Inbound Letter Post Small Packets and Bulky Letters product effective January 1, 2021. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

DATES: *Comments are due:* April 27, 2020.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Contents of Filing
III. Administrative Actions
IV. Ordering Paragraphs

I. Introduction

On April 10, 2020, the Postal Service filed a notice of specific rates for its Inbound Letter Post Small Packets and Bulky Letters product effective January 1, 2021.[1] The Postal Service requests that the Commission favorably review the proposed prices so that the Postal Service may submit the prices to the Universal Postal Union (UPU) before the June 1, 2020 deadline. Notice at 5.

II. Contents of Filing

In its Notice, the Postal Service proposes new prices for the Inbound Letter Post Small Packets and Bulky Letters product. Notice at 1. Under the Universal Postal Convention, by June 1, 2020, the Postal Service may submit self-declared rates for Inbound Letter Post Small Packets and Bulky Letters that would take effect on January 1, 2021.[2] The Postal Service states that the proposed prices comply with 39 U.S.C. 3633(a). Notice at 4. To support its proposed Inbound Letter Post Small Packets and Bulky Letters prices, the Postal Service filed the proposed prices (Attachment 2); a copy of the certification required under 39 CFR 3015.5(c)(2) (Attachment 3); and a redacted copy of Governors' Decision 19–1. *Id.; see id.* Attachments 2–4. The Postal Service also filed redacted financial workpapers. Notice at 4.

In addition, the Postal Service filed an unredacted copy of Governors' Decision 19–1, the unredacted new prices, and related financial information under seal. *Id.* The Postal Service also provided an application for non-public treatment of material filed under seal filed pursuant to 39 CFR part 3007. *Id.* Attachment 1.

III. Administrative Actions

The Commission establishes Docket No. CP2020–120 for consideration of matters raised by the Notice and appoints Katalin K. Clendenin to serve as Public Representative in this docket. The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, and 39 CFR part 3015. Comments are due no later than April 27, 2020. The public portions of the filing can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request, if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.2.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2020–120 for consideration of the matters raised by the Postal Service's Notice.

2. Comments are due no later than April 27, 2020.[3]

3. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin will serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these dockets.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2020–08077 Filed 4–16–20; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of the United States Postal Service of Specific Rates Not of General Applicability for Inbound E-Format Letter Post for 2021, and Application for Non-Public Treatment, April 10, 2020, at 1 (Notice).

[2] *Id.* at 2; Universal Postal Convention (UPU Convention) Article 28bis.1. UPU Convention is available at: *http://www.upu.int/uploads/tx_sbdownloader/actsActsOfTheExtraordinaryCongressGenevaEn.pdf.*

[3] The Commission reminds interested persons that its revised and reorganized Rules of Practice and Procedure become effective April 20, 2020, and should be used in filings with the Commission after April 20, 2020. Beginning on that date, the rules will be available on the Commission's website. In the meantime, the new rules can be found in Order No. 5407, which was issued on January 16, 2020. Docket No. RM2019–13, Order Reorganizing Commission Regulations and Amending Rules of Practice, January 16, 2020 (Order No. 5407).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88625; File No. SR–NYSEArca–2019–81]

Self-Regulatory Organizations; NYSE Arca, 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 NYSE Arca Rule 5.2–E(j)(8) Governing the Listing and Trading of Exchange-Traded Fund Shares

April 13, 2020.

On November 1, 2019, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to, among other things, adopt new NYSE Arca Rule 5.2–E(j)(8) to permit the generic listing and trading of Exchange-Traded Fund Shares. The proposed rule change was published for comment in the **Federal Register** on November 20, 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 13, 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 April 7, 2020, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change, as modified by Amendment No. 1.[8] The Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 87542 (November 14, 2019), 84 FR 64170.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 87775, 84 FR 70590 (December 23, 2019).

[6] *See infra* at note 8.

[7] *See* Securities Exchange Act Release No. 88204, 85 FR 9892 (February 20, 2020).

[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-nysearca-2019-81/srnysearca201981.htm.*

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 new Rule 5.2–E(j)(8) to establish generic listing standards for Exchange-Traded Fund Shares, which are Derivative Securities Products that are permitted to operate in reliance on Rule 6c–11 under the Investment Company Act of 1940. In addition, the Exchange proposes to discontinue the quarterly reports currently required with respect to Managed Fund Shares listed on the Exchange pursuant to Commentary .01 to NYSE Arca Rule 8.600–E. This Amendment No. 2 to SR–NYSEArca–2019–81 replaces SR–NYSEArca–2019–81 as originally filed and Amendment 1 thereto, and supersedes such filings in their entirety. The proposed 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 Exchange proposes new Rule 5.2–E(j)(8) to establish ''generic'' listing standards for Exchange-Traded Fund Shares, which are Derivative Securities Products [9] that are permitted to operate in reliance on Rule 6c–11 (''Rule 6c–11'') under the Investment Company Act of 1940 (''1940 Act'').[10] In addition, the Exchange proposes to discontinue the quarterly reports currently required with respect to Managed Fund Shares listed on the Exchange pursuant to Commentary .01 to Rule 8.600–E.

The Exchange currently lists and trades shares of exchange-traded funds (''ETFs'') under the generic listing criteria of NYSE Arca Rule 5.2–E(j)(3) for Investment Company Units or Commentary .01 to NYSE Arca Rule 8.600–E for Managed Fund Shares, or pursuant to a Securities and Exchange Commission (''Commission'') approval order or notice of effectiveness under Section 19(b)(2) or Section 19(b)(3)(A), respectively, of the Act. Issuers of Investment Company Units and Managed Fund Shares have heretofore been required to submit an application for exemptive relief from certain provisions under the 1940 Act and to receive such relief pursuant to an exemptive order by the Commission. The Commission recently adopted Rule 6c–11 to permit ETFs that satisfy certain conditions to operate without obtaining an exemptive order from the Commission under the 1940 Act.[11] The regulatory framework provided in Rule 6c–11, therefore, will streamline current procedures and reduce the costs and time frames associated with bringing ETFs to market, thereby enhancing competition among ETF issuers and reducing costs for investors.[12]

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,[13] if the Commission has 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.[14] As contemplated by this Rule, the Exchange proposes new Rule 5.2–E(j)(8) to establish generic listing standards for ETFs that are permitted to operate in reliance on Rule 6c–11. An ETF listed under proposed Rule 5.2–E(j)(8) would therefore not need a separate proposed rule change pursuant to Rule 19b–4 before it can be listed and traded on the Exchange.[15]

The Exchange believes that the proposed generic listing rules for Exchange-Traded Fund Shares, described below, would facilitate efficient procedures for ETFs that are permitted to operate in reliance on Rule 6c–11. The Exchange further believes that the proposed rule is fully consistent with, and will further, the Commission's goals in adopting Rule 6c–11. As with Investment Company Units and Managed Fund Shares listed under the generic listing standards in NYSE Arca

[9] The term ''Derivative Securities Product'' is defined in Rule 1.1(k) to mean a security that meets the definition of ''derivative securities product'' in Rule 19b–4(e) under the Exchange Act. 17 CFR 240.19b–4(e). As provided under Rule 19b–4(e), the term ''new derivative securities product'' means any type of option, warrant, hybrid securities product or any other security, other than a single equity option or a security futures product, whose value is based, in whole or in part, upon the performance of, or interest in, an underlying instrument. The term ''Exchange Act'' is defined in Rule 1.1(q) to mean the Securities Exchange Act of 1934, as amended.

[10] 15 U.S.C. 80a–1.

[11] *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'').

[12] 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.

[13] 17 CFR 240.19b–4(c)(1). As provided under SEC Rule 19b–4(c)(1), a stated policy, practice, or interpretation of the SRO shall be deemed to be a proposed rule change unless it is reasonably and fairly implied by an existing rule of the SRO.

[14] Currently, ''passive'' ETFs (Investment Company Units) based on an underlying index as well as actively-managed ETFs (Managed Fund Shares) are listed on the Exchange pursuant to NYSE Arca Rules 5.2–E(j)(3) and 8.600–E, respectively, and such securities are eligible for Exchange listing pursuant to Rule 19b–4(e) if they satisfy the ''generic'' listing criteria specified in those Exchange rules. The Exchange may file with the Commission a proposed rule change pursuant to Rule 19(b) of the Act to permit listing of Investment Company Units and Managed Fund Shares that do not meet the applicable generic listing criteria. Such securities may be listed and traded on the Exchange following Commission approval or notice of effectiveness of the applicable proposed rule change.

[15] With respect to ETFs that seek Exchange listing and that are not permitted to operate in reliance on Rule 6c–11—for example, leveraged ETFs—such ETFs could be listed on the Exchange pursuant to the generic listing criteria in NYSE Arca Rule 5.2–E(j)(3) or 8.600–E, or pursuant to an Exchange Rule 19b–4 filing to permit listing under NYSE Arca Rule 5.2–E(j)(3) or 8.600–E, as applicable. The Exchange represents that all statements and representations made in any such filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, and (c) the applicability of Exchange listing rules specified in the applicable rule filing shall constitute continued listing requirements for listing the applicable series of Exchange-Traded Fund Shares.

Rules 5.2–E(j)(3) and 8.600–E, 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. This will significantly reduce the time frame and costs associated with bringing these securities to market, thereby promoting market competition among issuers of Exchange-Traded Fund Shares, to the benefit of the investing public.

Proposed Rule 5.2–E(j)(8)—Exchange-Traded Fund Shares

The Exchange is proposing standards that would pertain to Exchange-Traded Fund Shares to qualify for listing and trading pursuant to Rule 19b–4(e), as follows.[16]

Proposed Rule 5.2–E(j)(8)(a) would provide that the Exchange would consider for trading, whether by listing or pursuant to unlisted trading privileges (''UTP''), Exchange-Traded Fund Shares that meet the criteria of proposed Rule 5.2–E(j)(8).

Proposed Rule 5.2–E(j)(8)(b) would specify applicability of proposed Rule 5.2–E(j)(8) and would provide that it is applicable only to Exchange-Traded Fund Shares. Proposed Rule 5.2–E(j)(8)(b) would further provide that, except to the extent inconsistent with proposed Rule 5.2–E(j)(8), or unless the context otherwise requires, Exchange rules would be applicable to the trading on the Exchange of such securities and that Exchange-Traded Fund Shares would be included within the definition of NMS Stock as defined in Rule 1.1.

Proposed Rule 5.2–E(j)(8)(c) would set forth the definitions that would be used for purposes of the proposed rule as follows:

- Proposed Rule 5.2–E(j)(8)(c)(1) would define the term ''1940 Act'' to mean the Investment Company Act of 1940, as amended.
- Proposed Rule 5.2–E(j)(8)(c)(2) would define the term ''Exchange-Traded Fund'' as having the same meaning as the term ''exchange-traded fund'' as defined in Rule 6c–11(a)(1) under the 1940 Act.[17]
- Proposed Rule 5.2–E(j)(8)(c)(3) would define the term ''Exchange-Traded Fund Share'' to mean a share of stock issued by an Exchange-Traded Fund.[18]

Proposed Rule 5.2–E(j)(8)(c)(4) would define the term ''Reporting Authority'' to mean, in respect of a particular series of Exchange-Traded Fund Shares, the Exchange, an institution, or a reporting service designated by the Exchange or by the exchange that lists a particular series of Exchange-Traded Fund 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, any current index or portfolio value, the current value of the portfolio of any securities required to be deposited in connection with issuance of Exchange-Traded Fund Shares, the amount of any dividend equivalent payment or cash distribution to holders of Exchange-Traded Fund Shares, net asset value, or other information relating to the issuance, redemption or trading of Exchange-Traded Fund Shares. A series of Exchange-Traded Fund Shares may have more than one Reporting Authority, each having different functions.[19]

Proposed Rule 5.2–E(j)(8)(d) would specify the limitations on Exchange liability and relates to limitation of the Exchange, the Reporting Authority, or any agent of the Exchange as a result of specified events and conditions. Specifying such limitations of liability is standard in the Exchange's rules governing the listing of Derivative Securities Products and the proposed rule text is substantively identical to Rules 5.2–E(j)(3)(D), 8.100–E(f), 8.201–E(f), 8.200–E(f), 8.202–E(f), 8.203–E(f), 8.204–E(g), 8.300–E(f), 8.400–E(f), 8.500–E(e), 8.600–E(e), and 8.700–E(g).

Proposed Rule 5.2–E(j)(8)(e) would provide that Exchange may approve Exchange-Traded Fund Shares for listing and/or trading (including pursuant to UTP) pursuant to Rule 19b–4(e) under the Exchange Act provided that each series of Exchange-Traded Fund Shares must be eligible to operate in reliance on Rule 6c–11 under the 1940 Act and,) must satisfy the requirements of proposed Rule 5.2–E(j)(8)(as described below) upon initial listing and, except for subparagraph (1)(A) of Rule 5.2–E(j)(8), on a continuing basis. As further proposed, an issuer of such securities must notify the Exchange of any failure to comply with such requirements.

Proposed Rule 5.2–E(j)(8)(e)(1) sets forth the initial and continued listing standards for Exchange-Traded Fund Shares to be listed on the Exchange and would provide that Exchange-Traded Fund Shares will be listed and traded on the Exchange subject to the requirement that the investment company issuing a series of Exchange-Traded Fund Shares is eligible to operate in reliance on the requirements of Rule 6c–11(c) on an initial and continued listing basis.

Proposed Rule 5.2–E(j)(8)(e)(1)(A) provides that, for each series of Exchange-Traded Fund Shares, the Exchange will establish a minimum number of Exchange-Traded Fund Shares required to be outstanding at the time of commencement of trading on the Exchange.

Proposed Rule 5.2–E(j)(8)(e)(2) would set forth the standards for suspension of trading or removal of Exchange-Traded Fund Shares from listing on the Exchange and would provide that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5–E(m) of, a series of Exchange-Traded Fund Shares under any of the following circumstances:

(i) If the Exchange becomes aware that the investment company is no longer eligible to operate in reliance on Rule 6c–11; (see proposed Rule 5.2–E(j)(8)(e)(2)(A));

(ii) if the investment company no longer complies with the requirements set forth in Rule 5.2–E(j)(8) (see proposed Rule 5.2–E(j)(8)(e)(2)(B);

(iii) if, following the initial twelve-month period after commencement of trading on the Exchange of a series of Exchange-Traded Fund Shares, there are fewer than 50 beneficial holders of such series of Exchange-Traded Fund Shares (see proposed Rule 5.2–E(j)(8)(e)(2)(C)); or

(iv) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable (see proposed Rule 5.2–E(j)(8)(e)(2)(D)). This proposed rule text is based, for example, on Rules 5.2–E(j)(6)(B)(2)(c)(3)(for Index-Linked Securities); 8.600–E(d)(2)(C)(vi)(for Managed Fund

[16] Rule 6c–11 became effective on December 23, 2019. Subject to approval of this proposed rule change, Exchange-Traded Fund Shares that are permitted to operate in reliance on Rule 6c–11 would be eligible for listing and trading on the Exchange under proposed Rule 5.2–E(j)(8) after that date.

[17] Rule 6c–11(a)(1) defines ''exchange-traded fund'' as a registered open-end management company: (i) That issues (and redeems) creation units to (and from) authorized participants in exchange for a basket and a cash balancing amount if any; and (ii) Whose shares are listed on a national securities exchange and traded at market-determined prices. The terms ''authorized participant,'' ''basket'' and ''creation unit'' are defined in Rule 6c–11(a).

[18] The definition of Exchange-Traded Fund Shares is the same as the definition of ''exchange-traded fund shares'' in Rule 6c–11(a) under the 1940 Act.

[19] Proposed Rule 5.2–E(j)(8)(c)(4) is based, for example, on Rules 8.100–E(a)(2) for Portfolio Depositary Receipts); 8.600–E(c)(4) (for Managed Fund Shares) and 8.700–E(c)(4) (for Managed Trust Securities).

Shares); and 8.700–E(d)(2)(c)(vi)(for Managed Trust Securities).

Proposed Rule 5.2–E(j)(8)(f) would provide that transactions in Exchange-Traded Fund Shares would occur during the trading hours specified in Rule 7.34–E(a). As with other Derivative Securities Products listed on the Exchange, Exchange-Traded Fund Shares would trade during the Early, Core, and Late Trading Sessions, as defined in Rule 7.34–E(a). ETP Holders accepting orders in Exchange-Traded Fund Shares in the Early or Late Trading Session would be subject to the customer disclosure requirements specified in Rule 7.34–E(d).[20]

Proposed Rule 5.2–E(j)(8)(g) would provide that the Exchange would implement and maintain written surveillance procedures for Exchange-Traded Fund Shares. This proposed rule is based, for example, on Commentary .01(f) to Rule 5.2–E(j)(3) (for Investment Company Units); Commentary .03 to Rule 8.600–E (for Managed Fund Shares); and Commentary .04 to Rule 8.700–E (for Managed Trust Securities).

Proposed Rule 5.2–E(j)(8)(h) would provide that, upon termination of an investment company issuing Exchange-Traded Fund Shares, the Exchange requires that Exchange-Traded Fund Shares issued in connection with such entity be removed from Exchange listing. [21]

Proposed Commentary .01 to Rule 5.2–E(j)(8) would provide that a security that has previously been approved for listing on the Exchange pursuant to the generic listing requirements specified in Rule 5.2–E(j)(3) or Commentary .01 to Rule 8.600–E, or pursuant to a proposed rule change approved or subject to a notice of effectiveness by the Commission, may be considered approved for listing solely under Rule 5.2–E(j)(8) if such security is eligible to operate in reliance on Rule 6c–11 under the 1940 Act. Once so approved for listing, the continued listing requirements applicable to such previously-listed security will be those specified in paragraph (e) of Rule 5.2–E(j)(8). Any requirements for listing as specified in Rule 5.2–E(j)(3) or Commentary .01 to Rule 8.600–E, or an approval order or notice of effectiveness of a separate proposed rule change that differ from the requirements of Rule 5.2–E(j)(8) will no longer be applicable to such security.[22]

The Exchange believes that proposed Commentary .01 harmonizes the Exchange's listing standards for all Exchange-Traded Funds that will be listed on the Exchange, even if they were previously listed pursuant to different continued listing requirements. Specifically, as noted in the Rule 6c–11 Release, one year following the effective date of Rule 6c–11, the Commission will be rescinding those portions of its prior ETF exemptive orders under the 1940 Act that grant relief related to the formation and operation of certain ETFs. The Exchange believes that once this occurs, all Exchange-Traded Funds will be subject to the same requirements under Rule 6c–11 and will no longer be subject to any differing requirements that may have been set forth in the exemptive orders issued before the effective date of Rule 6c–11. To maintain consistent standards for all Exchange-Traded Fund Shares on the Exchange, the Exchange further believes that such previously-listed products should no longer be required to comply with the previously-applicable continued listing requirements for such Exchange-Traded Funds.

Proposed Commentary .02 to Rule 5.2–E(j)(8) would provide that the following requirements shall be met by series of Exchange-Traded Fund Shares on an initial and continued listing basis. With respect to series of Exchange-Traded Fund Shares that are based on an index: (1) If the underlying index is maintained by a broker-dealer or fund adviser, the broker-dealer or fund adviser will 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, and (2) Any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index composition, methodology and related matters, 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. See proposed Commentary .02 (a) to Rule 5.2–E(j)(8). Proposed Commentary .02(a) is based on Commentary .01(b)(1) to Rule 5.2–E(j)(3) and Commentary .02(b)(1) and (b)(3) to Rule 5.2–E(j)(3).

In addition, with respect to series of Exchange-Traded Fund Shares that are actively managed, if the investment adviser to the investment company issuing Exchange-Traded Fund Shares 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 such Exchange-Traded Fund's portfolio. Personnel who make decisions on the Exchange-Traded Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Exchange-Traded Fund portfolio. The Reporting Authority that provides information relating to the portfolio of a series of Exchange-Traded Fund Shares must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of such portfolio. (See proposed Commentary .02(b) to Rule 5.2–E(j)(8)). Proposed Commentary .02(b) is based in part on Commentary .06 to Rule 8.600–E.

The Exchange also proposes non-substantive amendments to include Exchange-Traded Fund Shares in other Exchange rules. Specifically, the Exchange proposes to amend Rule 5.3–E, concerning Corporate Governance and Disclosure Policies, and Rule 5.3–E(e), concerning Shareholder/Annual Meetings, to add Exchange-Traded Fund Shares to the enumerated derivative and special purpose securities that are subject to the respective Rules. Thus, Exchange-Traded Fund Shares would be subject to corporate governance, disclosure and shareholder/annual meeting requirements that are consistent

[20] NYSE Arca Rule 1.1–E(o) states that the term ''ETP Holder'' shall refer to a sole proprietorship, partnership, corporation, limited liability company or other organization in good standing that has been issued an Equity Trading Permit (''ETP''). An ETP Holder must be a registered broker or dealer pursuant to Section 15 of the Act. An ETP Holder shall agree to be bound by the Certificate of Incorporation, Bylaws and Rules of the Exchange, and by all applicable rules and regulations of the Commission.

[21] The Exchange will propose applicable NYSE Arca listing fees for Exchange-Traded Fund Shares in the NYSE Arca Equities Schedule of Fees and Charges in a separate proposed rule change.

[22] With respect to (1) new issues of Exchange-Traded Fund Shares listed under 5.2–E(j)(8), and (2) ETFs previously listed on the Exchange pursuant to Rule 5.2–E(j)(3) or 8.600–E and that are eligible to operate under Rule 6c–11, the Exchange will file a Form 19b–4(e) pursuant to Rule 19b–4(e) under the Act. Item 3 to Form 19b–4(e) (Class of New Derivative Securities Product) would specify that the ETF is listed as an issue of Exchange-Traded Fund Shares under NYSE Arca Rule 5.2–E(j)(8). The Exchange will require Exchange-listed series of Investment Company Units or Managed Fund Shares that wish to transition to listing as Exchange-Traded Fund Shares under Rule 5.2–E(j)(8) to provide written notification to the Exchange of eligibility to rely on Rule 6c–11. After such transition, an issuer of any such security, prior to the Commission's rescission of the issuer's exemptive relief under the 1940 Act and following notice to the Exchange, could thereafter revert to reliance on the generic listing criteria in Rule 5.2–E(j)(3) or Commentary .01 to Rule 8.600–E, or any proposed rule change approved or subject to a notice of effectiveness by the Commission in connection with the listing of such security.

with other derivative and special purpose securities enumerated in those Rules.

The Exchange notes that Exchange-Traded Fund Shares will be subject to all Exchange rules applicable to equities trading. With respect to Exchange-Traded Fund Shares, all of the Exchange 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 and the Financial Industry Regulatory Authority, Inc. (''FINRA'') will continue to monitor Exchange members for compliance with such requirements, which are not changing as a result of Rule 6c–11 under the 1940 Act.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in a series of Exchange-Traded Fund Shares.[23] Trading in Exchange-Traded Fund Shares will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in Exchange-Traded Fund Shares inadvisable.

These may include: (1) The extent to which certain information about the Exchange-Traded Fund Shares that is required to be disclosed under Rule 6c–11(c) of the 1940 Act is not being made available; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

NYSE Arca Rule 7.18–E(d)(2) provides that, with respect to Derivative Securities Products (which would include Exchange-Traded Fund Shares) listed on the Exchange for which a Net Asset Value (''NAV'') is disseminated, if the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it will halt trading in the affected Derivative Securities Product on the NYSE Arca Marketplace until such time as the NAV is available to all market participants. In addition, the Exchange may halt trading in Exchange Traded Fund Shares if there is an interruption or disruption in the dissemination of an underlying index value, if applicable, if there are major interruptions in securities trading in U.S. or global markets, or in the presence of other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.

The Exchange will obtain a representation from the issuer of a series of Exchange-Traded Fund Shares that the NAV per share of such series will be calculated daily and will be made available to all market participants at the same time.

Minimum Price Variation

As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Surveillance

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Exchange-Traded Fund 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 Investment Company Units and Managed Fund Shares, among other product types, to monitor trading in Exchange-Traded Fund Shares. The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in Exchange-Traded Fund 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 Exchange-Traded Fund 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 Exchange-Traded Fund Shares reported to FINRA's TRACE. FINRA also can access data obtained from the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (''EMMA'') system relating to municipal bond trading activity for surveillance purposes in connection with trading in a series of Exchange-Traded Fund Shares, to the extent that a series of Exchange-Traded Fund Shares holds municipal securities. As noted above, the issuer of a series of Exchange-Traded Fund 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 5.3–E.

Pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. As provided for under proposed Rule 5.2–E(j)(8)(e)(2), if the investment company or series of Exchange-Traded Fund Shares is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Rule 5.5–E(m).

The Exchange will utilize its existing procedures to monitor issuer compliance with the requirements of proposed Rule 5.2–E(j)(8). For example, the Exchange will continue to use intraday alerts that will notify Exchange personnel of trading activity throughout the day that may indicate that certain disclosures are not being made accurately or that other unusual conditions or circumstances are present that could be detrimental to the maintenance of a fair and orderly market. The Exchange will require periodic certification from the issuer of a series of Exchange-Traded Fund Shares that it is in compliance with Rule 6c–11 and the requirements of Rule 5.2–E(j)(8). Proposed Rule 5.2–E(j)(8)(e)(2)(i) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5–E(m) of, a series of Exchange-Traded Fund Shares if the Exchange becomes aware that the investment company is no longer eligible to operate in reliance on Rule 6c–11. The Exchange's awareness for purposes of determining whether to suspend trading or delist a series of Exchange-Traded Fund Shares may result from notification by the investment company or by the Exchange learning, through its own efforts, of non-compliance with Rule 5.2–E(j)(8).[24] In addition, the Exchange will periodically review issuer websites to monitor whether disclosures are being made for a series of Exchange-Traded Fund Shares as required by Rule 6c–11(c)(1). The Exchange also notes that proposed Rule 5.2–E(j)(8)(e) would require an issuer of Exchange-Traded Fund Shares to notify the Exchange that it is no longer eligible to operate in reliance on Rule 6c–11 or that it does not comply

[23] *See* NYSE Arca Rule 7.12–E.

[24] As proposed Rule 5.2–E(j)(8) does not impose index dissemination requirements, the Exchange does not plan to conduct a specific index dissemination surveillance for securities listed pursuant to such rule.

with the requirements of proposed Rule 5.2–E(j)(8). The Exchange will rely on the foregoing procedures to become aware of any non-compliance with the requirements of Rule 5.2–E(j)(8).

Firewalls

Commentary .01(b)(1) and Commentary .02(b) to NYSE Arca Rule 5.2–E (j)(3) (applicable to Investment Company Units) and Commentary .06 to NYSE Arca Rule 8.600–E (applicable to Managed Fund Shares) require the establishment and maintenance of a ''firewall'' around personnel who have access to information concerning changes to an index or the composition and/or changes to a fund's portfolio; and that specified persons or entities be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index or portfolio.

In the Rule 6c–11 Release, the Commission, in the context of index-based ETFs with affiliated index providers (''self-indexed ETFs''), noted the federal securities law provisions that currently relate to implementation by funds of appropriate measures to deal with misuse of non-public information.[25] The Exchange notes that these federal securities laws requirements will continue to apply to issues of index and actively-managed ETFs and the proposed generic listing rules for Exchange-Traded Fund Shares are consistent with such requirements. The Exchange notes that proposed Commentary .02(a) to Rule 5.2–E(j)(8) provides that, with respect to series of Exchange-Traded Fund Shares that are based on an index, if the underlying index is maintained by a broker-dealer or fund adviser, the broker-dealer or fund adviser will 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 advisor. In addition, proposed Commentary .02(b) provides that, with respect to series of Exchange-Traded Fund Shares that are actively managed, if the investment adviser to the Exchange-Traded Fund issuing Exchange-Traded Fund Shares 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 such Exchange-Traded Fund portfolio. Personnel who make decisions on the applicable Exchange Traded Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Exchange Traded Fund portfolio.

In support of this proposal, the Exchange represents that:

(1) The Exchange-Traded Fund Shares will conform to the initial and continued listing criteria under Rule 5.2–E(j)(8);

(2) the Exchange's surveillance procedures are adequate to properly monitor the trading of the Exchange-Traded Fund 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 will include Exchange-Traded Fund Shares, to monitor trading in the Exchange-Traded Fund Shares;

(3) the issuer of a series of Exchange-Traded Fund 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 5.3–E; and

(4) Exchange-Traded Fund Shares will be subject to all Exchange rules applicable to equities trading.

Proposed Discontinuance of Quarterly Reporting Obligation for Managed Fund Shares

In its order approving the Exchange's proposal to adopt generic listing standards for Managed Fund Shares,[26] the Commission noted that the Exchange has represented that it would ''provide the Commission staff with a report each calendar quarter that includes the following information for issues of Managed Fund Shares listed during such calendar quarter under Commentary .01 to NYSE Arca Rule 8.600–E: (1) Trading symbol and date of listing on the Exchange; (2) the number of active authorized participants and a description of any failure of an issue of Managed Fund Shares listed pursuant to Commentary .01 to Rule 8.600–E or of an authorized participant to deliver shares, cash, or cash and financial instruments in connection with creation or redemption orders; and (3) a description of any failure of an issue of Managed Fund Shares to comply with Rule 8.600–E.'' [27] The Exchange has provided such information to the Commission on a quarterly basis for two years. The requirement to provide such quarterly reports for Managed Fund Shares is not separately specified in Rule 8.600–E, and Investment Company Units listed under Rule 5.2–E(j)(3) have not been subject to a similar requirement.

The generic listing criteria in proposed Rule 5.2–E(j)(8) will now apply equally both to Exchange-Traded Fund Shares that are Investment Company Units previously listed under Rule 5.2–E(j)(3) and those that are Managed Fund Shares previously listed under Commentary .01 to Rule 8.600–E. All types of Exchange-Traded Fund Shares, whether index-based or actively managed, must be eligible to operate in reliance on Rule 6c–11.[28] The Exchange believes no purpose would be served by continuing to require quarterly reports for one class of ETFs and not another when both would be subject to the same Exchange generic listing rules. In addition, Managed Fund Shares have

[25] *See* Rule 6c–11 Release at 57168–57169. *See also* 17 CFR 270.38a–1 (rule 38a–1 under the 1940 Act) (requiring funds to adopt policies and procedures reasonably designed to prevent violation of federal securities laws); 17 CFR 270.17j–1(c)(1) (rule 17j–1(c)(1) under the Investment Company Act) (requiring funds to adopt a code of ethics containing provisions designed to prevent certain fund personnel (''access persons'') from misusing information regarding fund transactions); section 204A of the Investment Advisers Act of 1940 (''Advisers Act'') (15 U.S.C. 80b–204A) (requiring an adviser to adopt policies and procedures that are reasonably designed, taking into account the nature of its business, to prevent the misuse of material, non-public information by the adviser or any associated person, in violation of the Advisers Act or the Exchange Act, or the rules or regulations thereunder); section 15(g) of the Exchange Act (15 U.S.C. 78o(f)) (requiring a registered broker or dealer to adopt policies and procedures reasonably designed, taking into account the nature of the broker's or dealer's business, to prevent the misuse of material, nonpublic information by the broker or dealer or any person associated with the broker or dealer, in violation of the Exchange Act or the rules or regulations thereunder).

[26] *See* Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (the ''Managed Fund Shares Approval Order'').

[27] *See* Managed Fund Shares Approval Order at footnote 18.

[28] The Exchange notes that Rule 6c–11(d) sets forth recordkeeping requirements applicable to exchange-traded funds, and provides that that the exchange-traded fund must maintain and preserve for a period of not less than five years, the first two years in an easily accessible place: (1) All written agreements (or copies thereof) between an authorized participant and the exchange-traded fund or one of its service providers that allows the authorized participant to place orders for the purchase or redemption of creation units; (2) For each basket exchanged with an authorized participant, records setting forth: (i) The ticker symbol, CUSIP or other identifier, description of holding, quantity of each holding, and percentage weight of each holding composing the basket exchanged for creation units; (ii) If applicable, identification of the basket as a custom basket and a record stating that the custom basket complies with policies and procedures that the exchange-traded fund adopted pursuant to paragraph (c)(3) of Rule 6c–11; (iii) Cash balancing amount (if any); and (iv) Identity of authorized participant transacting with the exchange-traded fund.

been trading on the Exchange since 2008 and there are currently 192 issues of Managed Fund Shares listed on the Exchange. The market for actively-managed ETFs has expanded and matured significantly over the last twelve years and market participants, including national securities exchanges, have become more experienced with issues related to the operation and regulatory oversight of such securities. The Exchange, therefore, proposes to discontinue quarterly reporting going forward.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[29] in general, and furthers the objectives of Section 6(b)(5) of the Act,[30] in particular, because 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, in general, to protect investors and the public interest.

By facilitating efficient procedures for listing ETFs that are permitted to operate in reliance on Rule 6c–11, the generic listing rules in proposed Rule 5.2–E(j)(8) described above are consistent with, and will further, the Commission's goals in adopting Rule 6c–11. In addition, by allowing Exchange-Traded Fund Shares 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, proposed Rule 5.2–E(j)(8) will significantly reduce the time frame and costs associated with bringing these securities to market, thereby promoting market competition among issuers of Exchange-Traded Fund Shares, to the benefit of the investing public.

In addition, the proposed rule change would fulfill the intended objective of Rule 19b–4(e) under the Act by permitting Exchange-Traded Fund Shares that satisfy the proposed listing standards to be listed and traded without separate Commission approval.

Proposed Rule 5.2–E(j)(8)(d) would specify the limitations on Exchange liability and relates to limitation of the Exchange, the Reporting Authority, or any agent of the Exchange as a result of specified events and conditions.

As provided in proposed Rule 5.2–E(j)(8)(e), the Exchange may approve Exchange-Traded Fund Shares for listing and trading on the Exchange subject to the requirement that the investment company issuing a series of Exchange-Traded Fund Shares is eligible to operate in reliance on Rule 6c–11 [31] under the 1940 Act and must satisfy the requirements of Rule 5.2–E(j)(8) on an initial listing and, except for subparagraph (1)(A) of Rule 5.2–E(j)(8)(e), a continuing basis. An issuer of such securities must notify the Exchange of any failure to comply with such requirements. These requirements will ensure that Exchange-listed Exchange-Traded Fund Shares continue to operate in a manner that fully complies with the portfolio transparency requirements of Rule 6c–11(c).

As provided in proposed Rule 5.2–E(j)(8)(e)(1), Exchange-Traded Fund Shares will be listed and traded on the Exchange subject to the requirement that the investment company issuing a series of Exchange-Traded Fund Shares is eligible to operate in reliance on the requirements of Rule 6c–11(c) under the 1940 Act on an initial and continued listing basis.

As provided in proposed Rule 5.2–E(j)(8)(e)(2) (Suspension of trading or removal), the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5–E(m) of, a series of Exchange-Traded Fund Shares if the Exchange becomes aware that it is no longer eligible to operate in reliance on Rule 6c–11 or does not comply with the requirements set forth in Rule 5.2–E(j)(8); if, following the initial twelve-month period after commencement of trading on the Exchange of a series of Exchange-Traded Fund Shares, there are fewer than 50 beneficial holders of such series of Exchange-Traded Fund Shares; or if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

As provided in proposed Rule 5.2–E(j)(8)(g), the Exchange will implement and maintain written surveillance procedures for Exchange-Traded Fund Shares. The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Exchange-Traded Fund 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 will include Exchange-Traded Fund Shares, to monitor trading in the Exchange-Traded Fund Shares.

Proposed Rule 5.2–E(j)(8)(h) provides that, upon termination of an investment company issuing Exchange-Traded Fund Shares, the Exchange requires that Exchange-Traded Fund Shares issued in connection with such entity be removed from Exchange listing.

Proposed Commentary .01 to Rule 5.2–E(j)(8) provides that a security that has previously been approved for listing on the Exchange pursuant to the generic listing requirements specified in Rule 5.2–E(j)(3) or Commentary .01 to Rule 8.600–E, or pursuant to a proposed rule change approved or subject to a notice of effectiveness by the Commission, may be considered approved for listing solely under Rule 5.2–E(j)(8) if such security is eligible to operate in reliance on Rule 6c–11 under the 1940 Act. Once so approved for listing, the continued listing requirements applicable to such previously-listed security will be those specified in paragraph (e) of Rule 5.2–E(j)(8). Any requirements for listing as specified in Rule 5.2–E(j)(3) or Commentary .01 to Rule 8.600–E, or an approval order or notice of effectiveness of a separate proposed rule change that differ from the requirements of Rule 5.2–E(j)(8) will no longer be applicable to such security. The Exchange believes proposed Commentary .01 will streamline the listing process for such securities, consistent with the regulatory framework adopted in Rule 6c–11 under the 1940 Act.

Proposed Commentary .02 to Rule 5.2–E(j)(8) would provide requirements to be met on an initial and continued listing basis by series of Exchange-Traded Fund Shares that are based on an index or are actively managed regarding the erection and maintenance of a ''fire wall'' as well as implementation and maintenance of procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index or portfolio. The Exchange believes the provisions of Commentary .02 will address possible concerns regarding misuse of material non-public information regarding an index underlying a series of Exchange-Traded Fund Shares or the portfolio for a series of Exchange-Traded Fund Shares, as applicable.

The proposed addition of Exchange-Traded Fund Shares to the enumerated derivative and special purpose securities that are subject to the provisions of Rule 5.3–E (Corporate Governance and Disclosure Policies) and Rule 5.3–E (e) (Shareholder/Annual Meetings) would subject Exchange-Traded Fund Shares to the same requirements currently applicable to other 1940 Act-registered investment

[29] 15 U.S.C. 78f(b).

[30] 15 U.S.C. 78f(b)(5).

[31] Rule 6c–11(c) sets forth certain conditions applicable to exchange-traded funds, including information required to be disclosed on the fund's website.

company securities (*i.e.,* Investment Company Units, Managed Fund Shares and Portfolio Depositary Receipts).

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Exchange-Traded Fund Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, or the regulatory staff of the Exchange, will communicate as needed regarding trading in Exchange-Traded Fund Shares with other markets that are members of ISG, including all U.S. securities exchanges on which the components are traded. In addition, the Exchange may obtain information regarding trading in Exchange-Traded Fund Shares from other markets that are members of the ISG, including all U.S. securities exchanges on which the components are traded, or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which are currently applicable to Investment Company Units and Managed Fund Shares, among other product types, to monitor trading in Exchange-Traded Fund Shares. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in Exchange-Traded Fund Shares and certain of their applicable underlying components with other markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, the Exchange may obtain information regarding trading in Exchange-Traded Fund 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 Exchange-Traded Fund Shares reported to FINRA's TRACE. FINRA also can access data obtained from the Municipal Securities Rulemaking Board's EMMA system relating to municipal bond trading activity for surveillance purposes in connection with trading in a series of Exchange-Traded Fund Shares, to the extent that a series of Exchange-Traded Fund Shares holds municipal securities. As noted above, the issuer of a series of Exchange-Traded Fund 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 5.3–E.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in a series of Exchange-Traded Fund Shares.[32] Trading in Exchange-Traded Fund Shares will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in Exchange-Traded Fund Shares inadvisable. NYSE Arca Rule 7.18–E(d)(2) provides that, with respect to Derivative Securities Products (which would include Exchange-Traded Fund Shares) listed on the Exchange for which an NAV is disseminated, if the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it will halt trading in the affected Derivative Securities Product on the NYSE Arca Marketplace until such time as the NAV is available to all market participants. The Exchange will obtain a representation from the issuer of a series of Exchange-Traded Fund Shares that the NAV per share of such series will be calculated daily and will be made available to all market participants at the same time.

The Exchange will monitor for compliance with the continued listing requirements. If the Exchange-Traded Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Rule 5.5–E(m).

The Exchange will utilize its existing procedures to monitor issuer compliance with the requirements of proposed Rule 5.2–E(j)(8). For example, the Exchange will continue to use intraday alerts that will notify Exchange personnel of trading activity throughout the day that may indicate that certain disclosures are not being made accurately or that other unusual conditions or circumstances are present that could be detrimental to the maintenance of a fair and orderly market. The Exchange will require periodic certification from the issuer of a series of Exchange-Traded Fund Shares that it is in compliance with Rule 6c–11 and the requirements of Rule 5.2–E(j)(8). In addition, the Exchange, on a periodic basis will review issues of Exchange-Traded Fund Shares listed on the Exchange for compliance with the requirements of Rule 6c–11(c)(1). Proposed Rule 5.2–E(j)(8)(e) would require an issuer of Exchange-Traded Fund Shares to notify the Exchange if it is no longer eligible to operate in reliance on Rule 6c–11 or that it does not comply with the requirements of proposed Rule 5.2–E(j)(8) (except for subparagraph (1)(A) of Rule 5.2–E(j)(8)(e)).

With respect to the proposed discontinuance of quarterly reports currently required for Managed Fund Shares, the Exchange believes such quarterly reports are no longer necessary in view of the requirements of Rule 6c–11(d). The generic listing criteria in proposed Rule 5.2–E(j)(8) will now apply equally both to Exchange-Traded Fund Shares that are Investment Company Units previously listed under Rule 5.2–E(j)(3) and those that are Managed Fund Shares previously listed under Commentary .01 to Rule 8.600–E. All types of Exchange-Traded Fund Shares, whether index-based or actively managed, must be eligible to operate in reliance on Rule 6c–11.[33] The Exchange believes no purpose would be served by continuing to require quarterly reports for one class of ETFs and not another when both would be subject to the same Exchange generic listing rules. As noted above, the market for actively-managed ETFs has expanded and matured significantly over the last twelve years and market participants, including national securities exchanges, have become more experienced with issues related to the operation and regulatory oversight of such securities. The Exchange, therefore, proposes to discontinue quarterly reporting going forward.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[34] 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. Instead, the Exchange believes that the proposed rule change would facilitate the listing and trading of Exchange-Traded Fund Shares and result in an efficient process surrounding the listing and trading of Exchange-Traded Fund Shares, which will enhance competition

[32] *See* NYSE Arca Rule 7.12–E.

[33] *See* note 25, *supra.*

[34] 15 U.S.C. 78f(b)(8).

among market participants, to the benefit of investors and the marketplace. The Exchange believes that this will reduce the time frame for bringing Exchange-Traded Fund Shares to market, thereby reducing the burdens on issuers and other market participants and promoting competition. In turn, the Exchange believes that the proposed change would make the process for listing Exchange-Traded Fund Shares more competitive by applying uniform listing standards with respect to Exchange-Traded Fund Shares.

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. 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.[35] 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,[36] 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 NYSE Arca Rule 5.2–E(j)(8)

As an initial matter, the Commission notes that the Exchange currently has generic listing standards for Investment Company Units, Managed Fund Shares, and Portfolio Depositary Receipts,[37] and therefore proposed NYSE Arca Rule 5.2–E(j)(8) would not permit the Exchange to generically list any novel product types. The Commission also notes that a number of the provisions of proposed NYSE Arca Rule 5.2–E(j)(8) are substantively similar to provisions of other NYSE Arca listing rules.[38]

The Commission believes that proposed NYSE Arca Rule 5.2–E(j)(8) 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.[39] Because initial and ongoing compliance with Rule 6c–11 under the 1940 Act is a condition for listing and trading on the Exchange, the proposed rule would permit NYSE Arca to list and trade shares of an investment company with a fully transparent portfolio,[40] and the Commission believes that portfolio transparency should help prevent manipulation of the price of Exchange-Traded Fund Shares.[41] Additionally, proposed NYSE Arca Rule 5.2–E(j)(8) 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,[42] all such requirements of which are designed to prevent fraudulent and manipulative acts and practices.[43] The Commission specifically notes that certain of these requirements relating to such fire walls and procedures, which are substantively identical to NYSE Arca'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 NYSE Arca Rule 5.2–E(j)(8)(g) requires that the Exchange implement and maintain written surveillance procedures for Exchange-Traded Fund Shares. The Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which are currently applicable to Investment Company Units and Managed Fund Shares (among other product types), to monitor trading in Exchange-Traded Fund 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. Consistent with Section 6(b)(1) of the Act, the Exchange represents that, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements, and that, as provided under proposed NYSE Arca Rule 5.2–E(j)(8)(e)(2), if the investment company or series of Exchange-Traded Fund Shares is not in

[35] 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).

[36] 15 U.S.C. 78f(b)(5).

[37] *See* NYSE Arca Rules.

[38] *See* Amendment No. 2, *supra* note 8, at 7–11.

[39] *See* Rule 6c–11 Release, *supra* note 11, at 57180–81.

[40] *See supra* note 31 and accompanying text. 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 11, at 57166.

[41] *See id.* at 57169 (concluding that portfolio transparency combined with existing requirements should be sufficient to protect against certain abuses).

[42] For example, proposed Commentary .02(a) to NYSE Arca Rule 5.2–E(j)(8) provides that, with respect to a series of Exchange-Traded Fund Shares that are based on an index, if the underlying index is maintained by a broker-dealer or fund adviser, the broker-dealer or fund adviser will 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. In addition, any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index composition, methodology and related matters, 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. Proposed Commentary .02(b) to NYSE Arca Rule 5.2–E(j)(8) further states that, with respect to series of Exchange-Traded Fund Shares that are actively managed, if the investment adviser to the investment company issuing Exchange-Traded Fund Shares 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 such Exchange-Traded Fund's portfolio. Additionally, personnel who make decisions on the Exchange-Traded Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Exchange-Traded Fund portfolio. Moreover, the Reporting Authority that provides information relating to the portfolio of a series of Exchange-Traded Fund Shares must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of such portfolio.

[43] 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 11, 84 FR at 57168.

compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).[44] Further, the Exchange represents that it, or FINRA on behalf of the Exchange, will communicate as needed regarding trading in Exchange-Traded Fund Shares and certain of their applicable underlying components with other markets that are members of the ISG or with which NYSE Arca has in place a comprehensive surveillance sharing agreement.

The Exchange represents that it will utilize its existing procedures to monitor issuer compliance with the requirements of proposed NYSE Arca Rule 5.2–E(j)(8). For example, the Exchange will continue to use intraday alerts that will notify Exchange personnel of trading activity throughout the day that may indicate that certain disclosures are not being made accurately or that other unusual conditions or circumstances are present that could be detrimental to the maintenance of a fair and orderly market.[45] The Exchange will require periodic certification from the issuer of a series of Exchange-Traded Fund Shares that it is in compliance with Rule 6c–11 under the 1940 Act and the requirements of NYSE Arca Rule 5.2–E(j)(8).[46] Proposed NYSE Arca Rule 5.2–E(j)(8)(e)(2)(i) provides that the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 5.5–E(m) of, a series of Exchange-Traded Fund Shares if the Exchange becomes aware that the investment company is no longer eligible to operate in reliance on Rule 6c–11 under the 1940 Act.[47] In addition, the Exchange states that it will periodically review issuer websites to monitor whether disclosures are being made for a series of Exchange-Traded Fund Shares as required by Rule 6c–11(c)(1) under the 1940 Act.[48] The Exchange also notes that proposed NYSE Arca Rule 5.2–E(j)(8)(e) would require an issuer of Exchange-Traded Fund Shares to notify the Exchange that it is no longer eligible to operate in reliance on Rule 6c–11 under the 1940 Act or that it does not comply with the requirements of proposed NYSE Arca Rule 5.2–E(j)(8).[49] Finally, proposed NYSE Arca Rule 5.2–E(j)(8)(e)(2)(C) requires that the Exchange commence delisting proceedings for a series of Exchange-Traded Fund 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 Exchange-Traded Fund Shares.

Consistent with the requirement of Section 6(b)(5) of the Act[50] 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 Exchange-Traded Fund 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 Exchange-Traded Fund Shares.[51] NYSE Arca states that trading in Exchange-Traded Fund Shares will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached.[52] Additionally, NYSE Arca Rule 7.18–E(d)(2) provides that, with respect to Derivative Securities Products (which would include Exchange-Traded Fund Shares) listed on the Exchange for which an NAV is disseminated, if the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it will halt trading in the affected Derivative Securities Product until such time as the NAV is available to all market participants.[53] Additionally, trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in Exchange-Traded Fund Shares inadvisable. As NYSE Arca represents in the proposal, examples of such market conditions or reasons may be: (1) The extent to which certain information about the Exchange-Traded Fund Shares that is required to be disclosed under Rule 6c–11 of the 1940 Act is not being made available;[54] (2) if there is an interruption or disruption in the dissemination of an underlying index value, if applicable; (3) if there are major interruptions in securities trading in U.S. or global markets; or (4) in the presence of other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.[55]

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. 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 NYSE Arca 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. Further, proposed NYSE Arca Rule 5.2–E(j)(8)(g) requires that the Exchange implement and maintain written surveillance procedures for Exchange-Traded Fund Shares.[56] The Exchange represents that it intends to utilize its existing surveillance procedures applicable to derivative products, which will include Exchange-Traded Fund Shares, to monitor trading in the Exchange-Traded Fund Shares, and will perform ongoing surveillance of Exchange-Traded Fund 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, NYSE Arca's ability to halt trading under proposed NYSE Arca Rule 5.2–E(j)(8),[57] and the Exchange's ability to

[44] 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.

[45] *See* Amendment No. 2, *supra* note 8, at 13.

[46] *See id.*

[47] The Exchange represents that its awareness for purposes of determining whether to suspend trading or delist a series of Exchange-Traded Fund Shares may result from notification by the investment company or by the Exchange learning, through its own efforts, of non-compliance with NYSE Arca Rule 5.2–E(j)(8). *See id.*

[48] *See id.*

[49] *See* Amendment No. 2, *supra* note 8, at 13–14.

[50] 15 U.S.C. 78f(b)(5).

[51] *See* Amendment No. 2, *supra* note 8, at 20.

[52] *See id.*

[53] *See id.*

[54] *See* Amendment No. 2, *supra* note 8, at 12.

[55] *See id.*

[56] Moreover, NYSE Arca Rule 8.600–E(d)(2)(C) requires that the Exchange implement and maintain written surveillance procedures for Managed Fund Shares.

[57] The Exchange states that it may consider all relevant factors in exercising its discretion to halt or suspend trading in a series of Exchange-Traded Fund Shares, and that it may halt trading due to market conditions that make trading in the Exchange-Traded Fund Shares inadvisable, including the following circumstances: (1) If the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached; (2) if there is an interruption or disruption in the dissemination of an underlying

commence delisting proceedings under proposed NYSE Arca Rule 5.2–E(j)(8)(e)(2). 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 NYSE Arca to continue to submit such quarterly reports.

C. Other Related Rule Changes

The Exchange also proposes non-substantive amendments to include Exchange-Traded Fund Shares in other Exchange rules. Specifically, the Exchange proposes to amend NYSE Arca Rule 5.3–E, concerning Corporate Governance and Disclosure Policies, and NYSE Arca Rule 5.3–E(e), concerning Shareholder/Annual Meetings, to add Exchange-Traded Fund Shares to the enumerated derivative and special purpose securities that are subject to the respective rules.[58] The Exchange states that the proposed addition of Exchange-Traded Fund Shares to the enumerated derivative and special purpose securities that are subject to the provisions of NYSE Arca Rule 5.3–E (Corporate Governance and Disclosure Policies) and NYSE Arca Rule 5.3–E(e) (Shareholder/Annual Meetings) would subject Exchange-Traded Fund Shares to the same requirements currently applicable to other 1940 Act-registered investment company securities (*i.e.,* Investment Company Units, Managed Fund Shares, and Portfolio Depositary Receipts).[59] The Commission believes that these proposed changes simply incorporate proposed NYSE Arca Rule 5.2–E(j)(8) into the existing framework of the Exchange'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) Exchange-Traded Fund Shares will conform to the initial and continued listing criteria under proposed NYSE Arca Rule 5.2–E(j)(8) and will be subject to all Exchange rules applicable to equity trading.[60] With respect to Exchange-Traded Fund Shares, all of the Exchange 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 and FINRA will continue to monitor Exchange members for compliance with such requirements, which are not changing as a result of Rule 6c–11 under the 1940 Act.[61]

(2) NYSE Arca will (a) monitor for compliance with the continued listing standards; (b) review the website of series of Exchange-Traded Fund Shares to ensure that the requirements of Rule 6c–11 are being met; and (c) employ 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.[62]

(3) NYSE Arca will obtain a representation from the issuer of a series of Exchange-Traded Fund Shares that the NAV per share of such series will be calculated daily and will be made available to all market participants at the same time.[63]

(4) NYSE Arca's surveillance procedures are adequate to properly monitor the trading of the Exchange-Traded Fund Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.[64]

(5) The Exchange, or FINRA on behalf of the Exchange, will communicate as needed regarding trading in Exchange-Traded Fund 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 Exchange-Traded Fund 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 Exchange-Traded Fund Shares, to the extent that a series of Exchange-Traded Fund Shares holds municipal securities.[65]

(6) The issuer of a series of Exchange-Traded Fund 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 NYSE Arca Rule 5.3–E.[66]

This approval order is based on all of the Exchange's representations, including those set forth above and in Amendment No. 2 to the proposed rule change. 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[67] 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 Exchange 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–NYSEArca–2019–81 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca-2019–81. 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

index value, if applicable, (3) if there are major interruptions in securities trading in U.S. or global markets; or (4) in the presence of other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.

[58] Under the current version of these rules, Investment Company Units, Portfolio Depositary Receipts and Managed Fund Shares are exempted from the specified corporate governance requirements.

[59] *See* Amendment No. 2, *supra* note 8, at 19.

[60] *See id.* at 11.

[61] *See id.*

[62] *See* id. at 13. NYSE Arca Rule 5.2–E(j)(8)(e) would require an issuer of Exchange-Traded Fund Shares to notify the Exchange that it is no longer eligible to operate in reliance on Rule 6c–11 or that it does not comply with the requirements of proposed NYSE Arca Rule 5.2–E(j)(8).

[63] *See id.* at 12.

[64] *See id.* at 19.

[65] *See id.* at 12–13.

[66] *See id.* at 13.

[67] 15 U.S.C. 78f(b)(1) and 15 U.S.C. 78f(b)(5), respectively.

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2019–81, and should be submitted on or before May 8, 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) Expanded the circumstances in which it may halt trading in a series of Exchange-Traded Fund Shares; (2) clarified its undertakings with respect to ensuring compliance with the proposed generic listing standard; (3) specified that Exchange-Traded Fund Shares would be subject to rules governing Exchange member disclosure obligations; and (4) clarified the applicability of certain current listing rules in light of proposed NYSE Arca Rule 5.2–E(j)(8). These changes 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 Act,[68] 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,[69] that the proposed rule change (SR–NYSEArca–2019–81), as modified by Amendment No. 2, be, and it hereby is, approved on an accelerated basis.

[68] 15 U.S.C. 78s(b)(2).

[69] *Id.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[70]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08086 Filed 4–16–20; 8:45 am]

BILLING CODE 8011–01–P

[70] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88622; File No. SR–CBOE–2020–014]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Relating to Adopt a Delta-Adjusted at Close Order Instruction

April 13, 2020.

On February 18, 2020, Cboe Exchange, Inc. (''Exchange'') 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 adopt a Delta-Adjusted at Close order instruction that a User may apply to an order when entering it into the System for execution in an electronic or open outcry auction. The proposed rule change was published for comment in the **Federal Register** on March 9, 2020.[3] The Commission has received no comments on the proposal.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is April 23, 2020.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 88312 (March 3, 2020), 85 FR 13686.

[4] 15 U.S.C. 78s(b)(2).

Accordingly, pursuant to Section 19(b)(2) of the Act,[5] the Commission designates June 7, 2020, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change (File No. CBOE–2020–014).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08088 Filed 4–16–20; 8:45 am]

BILLING CODE 8011–01–P

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88626; File No. SR–Phlx–2020–19]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Phlx's Pricing Schedule

April 13, 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 3, 2020, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx's Pricing Schedule. Specifically, the Exchange proposes to amend rule text within Options 7, Section 8, ''Membership Fees.''

While the changes proposed herein are effective upon filing, the Exchange has designated the amendments to become operative on May 1, 2020.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Phlx proposes to amend Options 7, Section 8, ''Membership Fees'' concerning a May 2020 credit. In addition, Phlx proposes to remove outdated rule text.

Prior Proposal

In light of the recent closure of open outcry trading on the Phlx Trading Floor as of March 17, 2020,[3] Phlx waived certain floor-related fees within Options 7, Section 8, ''Membership Fees.''[4] Specifically, Phlx's Prior Proposal waived: (1) A Permit Fee of $4,000 per month to Floor Brokers;[5] (2) a Clerk[6] Fee[7] of $100 per month; and (3) Streaming Quote Trader (''SQT'')[8] Fees within Options 8, Section 8B.[9] Phlx's 7 tier SQT Fees are as follows:

Number of option class assignments	SQT Fees (per calendar month)
Tier 1: Up to 200 classes	$0.00
Tier 2: Up to 400 classes	$2,200.00
Tier 3: Up to 600 classes	$3,200.00
Tier 4: Up to 800 classes	$4,200.00
Tier 5: Up to 1,000 classes ..	$5,200.00
Tier 6: Up to 1,200 classes ..	$6,200.00
Tier 7: All equity issues	$7,200.00

Additionally, Phlx paid a credit to Trading Floor member organizations of $5,000 per Clerk based on the number of Clerks those member organizations had registered as of April 1, 2020. Phlx also stated it would pay the aforementioned credit for the month of May 2020, in the event that open outcry trading is unavailable as of May 1, 2020 and the Clerk is registered as of May 1, 2020.

At this time, the Exchange proposes to amend Options 7, Section 8 to remove the language regarding the April 2020 waiver and credits, which were already waived and paid, and amend the language regarding May credits to state that Phlx will credit each member organization an amount of $5,000 per associated person that was registered as a Clerk as of April 1, 2020 and remains registered on May 1, 2020, in the event that open outcry trading is unavailable as of May 1, 2020. The credit was not intended to pay any new Clerks that registered within the time period that open outcry was closed, rather it was intended to ensure that Clerks continued to be registered with the Exchange during the closure of open outcry.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[11] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, 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.''[12]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission*[13] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[14] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.''[15]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .''[16] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange's proposal to pay a credit of $5,000 per associated person that was registered as a Clerk as of April 1, 2020 and remains registered as of May 1, 2020 for the month of May 2020, in the event that open outcry trading is unavailable as of May 1, 2020, is reasonable. The intent of the credit was to provide relief to member organizations that are currently unable to transact options in open outcry on the Phlx Trading Floor by paying a credit

[3] *See* Options Trader Alert #2020–7.

[4] *See* Securities Exchange Act Release No. 88525 (March 31, 2020) (not yet published) (SR–Phlx–2020–12) (''Prior Proposal'').

[5] *See* Phlx Rules at Options 7, Section 8A.

[6] The term ''Clerk'' means any registered on-floor person employed by or associated with a member or member organization who is not a member and is not eligible to effect transactions on the Options Floor as a Lead Market Maker, Floor Market Maker, or Floor Broker. An Inactive Nominee is deemed a Clerk. *See* Options 8, Section 12(a).

[7] The Clerk Fee is imposed on any registered on-floor person employed by or associated with a member or member organization pursuant to Options 3, Section 19, including Inactive Nominees pursuant to Options 8, Section 7. The Clerk Fee is not imposed on permit holders. *See* Phlx Rules at Options 7, Section 8A.

[8] The term ''Streaming Quote Trader'' is defined in Options 1, Section 1(b)(54) as a Market Maker who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. *See* Options 7, Section 1. Further, Options 1, Section 1(b)(54) provides that an SQT means a Market Maker who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the trading floor of the Exchange. An SQT may only submit quotes in classes of options in which the SQT is assigned.

[9] The Prior Proposal also waived the Floor Facility Fee of $330 per month, which is applicable Clerks (excluding Inactive Nominees pursuant to Options 8, Section 7), Floor Brokers, Market Makers (including SQTs) and individual Lead Market Makers), within Options 7, Section 9, for the month of April 2020 and May 2020.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[13] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[14] *See NetCoalition,* at 534–535.

[15] *Id.* at 537.

[16] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

for their Clerks who were registered with the Exchange. The Exchange intended to pay a May 2020 credit to member organizations, provided those Clerks were registered as of April 1, 2020 and were retained by the Phlx member organizations as of May 1, 2020, in the event that open outcry trading was unavailable as of May 1, 2020. The credit was not intended to attract new Clerks to the Trading Floor during the closure of open outcry. Inserting rule text to make clear the Clerks that receive the credit had to be registered as of April 1, 2020 and remain registered as of May 1, 2020 will achieve the goal for which the credit was intended. Phlx believes this credit will assist member organizations to continue to maintain their business operations during the time period that open outcry trading is unavailable.

The Exchange's proposal to pay a credit of $5,000 per associated person that was registered as a Clerk as of April 1, 2020 and remains registered as of May 1, 2020 for the month of May 2020, in the event that open outcry trading is unavailable as of May 1, 2020, is equitable and not unfairly discriminatory. The Exchange proposes to pay all member organizations a credit for each Clerk the firm has registered as of April 1, 2020 and remains registered as of May 1, 2020 in a uniform manner, in the event that open outcry trading is unavailable as of May 1, 2020. The Exchange believes that paying a credit to member organizations for each Clerk would alleviate some of the financial burden for each member organization. A Clerk is any registered on-floor person employed by or associated with a member or member organization who is not a member and is not eligible to effect transactions on the Options Floor as a Lead Market Maker, Floor Market Maker, or Floor Broker. As such, Clerks are employees of Phlx Trading Floor member organizations that would not otherwise be able to transact an options business as a Lead Market Maker, Floor Market Maker, or Floor Broker. The Exchange believes the credit to member organizations for each Clerk will assist member organizations in continuing to employee Clerks during the closure of open outcry trading.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intra-Market Competition

The proposed amendments do not impose an undue burden on intra-market competition.

The Exchange's proposal to pay a credit of $5,000 per associated person that was registered as a Clerk as of April 1, 2020 and remains registered as of May 1, 2020 for the month of May 2020, in the event that open outcry trading is unavailable as of May 1, 2020, does not impose an undue burden on competition. The Exchange proposes to pay all member organizations a credit for each Clerk the firm has registered as of April 1, 2020 and remains registered as of May 1, 2020 in a uniform manner. The Exchange believes that paying a credit to member organizations for each Clerk would alleviate some of the financial burden for each member organization. A Clerk is any registered on-floor person employed by or associated with a member or member organization who is not a member and is not eligible to effect transactions on the Options Floor as a Lead Market Maker, Floor Market Maker, or Floor Broker. As such, Clerks are employees of Phlx Trading Floor member organizations that would not otherwise be able to transact an options business as a Lead Market Maker, Floor Market Maker, or Floor Broker. The Exchange believes the credit to member organizations for each Clerk will assist member organizations in continuing to employee Clerks during the closure of open outcry trading.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2020–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2020–19. 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

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

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–Phlx–2020–19 and should be submitted on or before May 8, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08087 Filed 4–16–20; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–616, OMB Control No. 3235–0671]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 613 of Regulation NMS

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in connection with a National Market System (NMS) Plan filed with the Commission under Rule 613 (17 CFR 242.613), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 613 of Regulation NMS (17 CFR part 242) required national securities exchanges and national securities associations (''Participants'') to jointly submit to the Commission a national market system (''NMS'') plan to govern the creation, implementation, and maintenance of a consolidated audit trail (''CAT'') and Central Repository for the collection of information for NMS securities. On February 27, 2015, the Participants submitted the CAT NMS Plan to the Commission.[1] On April 27, 2016, the Commission published a notice soliciting comments from the public (''CAT NMS Plan Notice'').[2] On November 15, 2016, the Commission approved the CAT NMS Plan (''CAT NMS Plan Order''), including the information collections proposed in the CAT NMS Plan Notice, and certain additional information collections.[3]

Since November 15, 2016, the Commission believes that three information collection requirements have been completed, specifically: (1) A document outlining how the Participants could incorporate into the consolidated audit trail information regarding certain products that are not NMS securities; [4] (2) a one-time assessment of the clock synchronization standards in the Plan before reporting begins for Industry Members, which assessment shall take into account the diversity of CAT Reporters and systems; [5] and (3) a one-time report that discusses the Participants' assessment of implementing coordinated surveillance.[6]

This Notice addresses the remaining information collection requirements noticed in the CAT NMS Plan Notice and certain additional information collections of the CAT NMS Plan Order, which are: (1) Development of a Central Repository tasked with the receipt, consolidation, and retention of reported order and execution information submitted by Participants and their members; [7] (2) the requirement that each Participant, and any member of such Participant, record and electronically report to the Central Repository details for each order and Reportable Event documenting the life of an order through the process of original receipt or origination, routing, modification, cancellation, and execution (in whole or in part) for each NMS security; [8] (3) the requirement that the CAT NMS Plan require the Central Repository to collect and retain on a current and continuous basis NBBO information for each NMS security, transaction reports reported pursuant to an effective transaction reporting plan, and Last Sale Reports reported pursuant to the Options Price Reporting Authority Plan; [9] (4) the requirement that the CAT NMS Plan must require that every national securities exchange and national securities association develop and implement a surveillance system, or enhance existing surveillance systems, reasonably designed to make use of the consolidated information contained in the consolidated audit trail; [10] (5) a one-time independent audit of the fees, costs, and expenses incurred by the Participants on behalf of CAT NMS, LLC prior to the Effective Date [11] of the Plan; [12] (6) a one-time report from the Participants discussing the feasibility and advisability of allowing Industry Members to bulk download the Raw Data that it has submitted to the Central Repository; [13] (7) a one-time assessment of the nature and extent of errors in the Customer information submitted to the Central Repository and whether the

[1] *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. The Participants filed the CAT NMS Plan on September 30, 2014. *See* Letter from the Participants, to Brent J. Fields, Secretary, Commission, dated September 30, 2014. The CAT NMS Plan filed on February 27, 2015, was an amendment to and replacement of the Initial CAT NMS Plan (the ''Amended and Restated CAT NMS Plan''). On December 24, 2015, the Participants submitted an Amendment to the Amended and Restated CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015 (the ''Amendment''). On February 9, 2016, the Participants filed with the Commission an identical, but unmarked, version of the Amended and Restated CAT NMS Plan, dated February 27, 2015, as modified by the Amendment, as well as a copy of the request for proposal issued by the Participants to solicit Bids from parties interested in serving as the Plan Processor for the consolidated audit trail. Unless the context otherwise requires, the ''CAT NMS Plan'' shall refer to the Amended and Restated CAT NMS Plan, as modified by the Amendment.

[2] *See* Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30613 (May 17, 2016). The burdens associated with the CAT NMS Plan Notice were submitted under OMB number 3235–0671 which relates to the NMS Plan required to be filed under Rule 613.

[3] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016), *available at https://www.sec.gov/rules/sro/nms/2016/34-79318.pdf* (''CAT NMS Plan Order'').

[4] *See* 17 CFR 242.613(i). *See also* ''One-Time Written Assessments,'' Consolidated Audit Trail, LLC at: *https://www.catnmsplan.com/one-time-written-assessments/index.html.*

[5] *See* CAT NMS Plan Order, *supra* note 3, at 84940.

[6] *Id.* at 84940–84941.

[7] *See* 17 CFR 242.613.

[8] *See* 17 CFR 242.613(c)(1), (c)(5), (c)(6), (c)(7).

[9] *See* 17 CFR 242.613(e)(7).

[10] *See* 17 CFR 242.613(f).

[11] The ''Effective Date'' is the date the Commission approved the CAT NMS Plan, which is November 15, 2016. *See id.*

[12] *See* CAT NMS Plan Order, *supra* note, at 84940.

[13] *Id.* at 84941.

correction of certain data fields over others should be prioritized from the Participants;[14] (8) a one-time report on the impact of tiered fees on market liquidity, including an analysis of the impact of the tiered-fee structure on Industry Members provision of liquidity from the Participants;[15] (9) an assessment of the projected impact of any Material Systems Change on the Maximum Error Rate, prior to the implementation of such Material Systems Change from the Participants;[16] (10) an annual requirement that that the CAT LLC financials be (i) in compliance with GAAP, (ii) be audited by an independent public accounting firm, and (iii) be made publicly available;[17] (11) a requirement that each Participant conduct background checks for its employees and contractors that will use the CAT System.[18]

The Commission believes that the CAT NMS Plan, once fully implemented, will improve the quality of the data available to regulators in four areas that affect the ultimate effectiveness of core regulatory efforts—completeness, accuracy, accessibility and timeliness.[19] The improvements in these data qualities would substantially improve regulators' ability to perform analysis and reconstruction of market events, and market analysis and research to inform policy decisions, as well as perform regulatory activities, in particular market surveillance, examinations, investigations, and other enforcement functions.

The Commission estimates that 1524 respondents[20] will require an aggregate total of approximately 7,572,610 hours per year to comply with the collection of information. The Commission further estimates that the aggregate cost to comply with the collection of information will be approximately $463,322,593 per year.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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 in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street, NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: April 14, 2020.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08122 Filed 4–16–20; 8:45 am]

BILLING CODE 8011–01–P

[14] *Id.*

[15] *Id.* at 84941–84942.

[16] *Id.* at 84942. The Commission believes that four assessments would be filed annually.

[17] *Id.*

[18] *Id.* The Commission believes that these background checks are necessary to ensure that only authorized and qualified persons are using the CAT System.

[19] *See* CAT NMS Plan Order, *supra* note 3, at 45727 (discussing four ''qualities'' of trade and order data that impact the effectiveness of core Participant and Commission regulatory efforts: accuracy, completeness, accessibility, and timeliness).

[20] The Commission notes that 24 Participants (the 23 national securities exchanges and one national securities association) and 1,500 broker-dealers subject to information collections requirements pursuant to Rule 613 and the CAT NMS Plan.

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting; Cancellation

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 85 FR 20309, April 10, 2020.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Wednesday, April 15, 2020 at 3:00 p.m.

CHANGES IN THE MEETING: The Closed Meeting scheduled for Wednesday, April 15, 2020 at 3:00 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 14, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–08238 Filed 4–15–20; 11:15 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 11093]

60-Day Notice of Proposed Information Collection: Annual Report—J–NONIMMIGRANT Exchange Visitor Program

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to *June 16, 2020.*

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2020–0015'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: JExchanges@State.gov.*
- *Regular Mail:* Send written comments to: U.S. Department of State, ECA/EC, SA–4E, Floor 1, 2200 C Street NW, Washington, DC 20522–0505, ATTN: **Federal Register** Notice Response.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to G. Kevin Saba, Director, Office of Policy and Program Support, Office of Private Sector Exchange, ECA/EC, SA–4E, Floor 5, Department of State, 2200 C Street NW, Washington, DC 20522–0505, who may be reached on 202–634–4710 or at *JExchanges@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Annual Report—J–NONIMMIGRANT Exchange Visitor Program.
- *OMB Control Number:* 1405–0151.
- *Type of Request:* Revision of a Currently Approved Collection.

• *Originating Office:* Bureau of Educational and Cultural Affairs, Office of Private Sector Exchange, ECA/EC.
• *Form Number:* Form DS–3097.
• *Respondents:* Designated J–NONIMMIGRANT program sponsors.
• *Estimated Number of Respondents:* 1,500.
• *Estimated Number of Responses:* 1,500.
• *Average Hours per Response:* 2 hours.
• *Total Estimated Burden:* 3,000 hours.
• *Frequency:* Annually.
• *Obligation to Respond:* Required to Obtain or Retain Benefits.

We are soliciting public comments to permit the Department to:
• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
• Enhance the quality, utility, and clarity of the information to be collected.
• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Abstract of Proposed Collection

Annual reports from designated program sponsors assist the Department in oversight and administration of the J–NONIMMIGRANT visa program. The reports provide qualitative data on the number of exchange participants an organization sponsored annually per category of exchange. The reports also provide a summary of the activities in which exchange visitors were engaged and indicate information about program effectiveness. Program sponsors include government agencies, academic institutions, and private sector not-for-profit and for-profit entities.

Methodology

Annual reports are completed through the Student and Exchange Visitor Information System (SEVIS) and then printed and signed by a sponsor official, and sent to the Department by email, mail, or fax.

Zachary Parker,
Director.

[FR Doc. 2020–08171 Filed 4–16–20; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

60-Day Notice of Intent To Seek Extension of Approval of Collection: Statutory Licensing Authority

AGENCY: Surface Transportation Board.

ACTION: Notice and request for comments.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek approval from the Office of Management and Budget (OMB) for an extension of approval for the information collection required from those seeking statutory licensing authority, as described below.

DATES: Comments on this information collection should be submitted by June 16, 2020.

ADDRESSES: Direct all comments to Chris Oehrle, Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001, or to *PRA@stb.gov.* When submitting comments, please refer to ''Paperwork Reduction Act Comments, Statutory Licensing Authority.'' For further information regarding this collection, contact Michael Higgins, Deputy Director, Office of Public Assistance, Governmental Affairs, and Compliance, at (202) 245–0284 or at *Michael.Higgins@stb.gov.* Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Comments are requested concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

Description of Collection

Title: Statutory Licensing Authority.
OMB Control Number: 2140–0023.
STB Form Number: None.
Type of Review: Extension without change.
Respondents: Rail carriers and non-carriers seeking statutory licensing or consolidation authority, an exemption from filing an application for such authority, or interchange commitments.
Number of Respondents: 80.[1]
Estimated Time per Response:

ESTIMATED HOURS PER RESPONSE

Type of filing	Number of hours per response under 49 U.S.C. 10901–03 and 11323–26
Applications	524
Petitions *	58
Notices *	19
Interchange commitments	8

Frequency: On occasion.

AVERAGE ANNUAL NUMBER OF RESPONSES FOR FY 2017–2019

Type of filing	Average number of filings per year under 49 U.S.C. 10901–03 and 11323–26
Applications	3
Petitions *	12
Notices *	103
Interchange commitments	4

Total Burden Hours (annually including all respondents): 4,257 (sum of estimated hours per response × number of responses for each type of filing).

TOTAL ANNUAL BURDEN HOURS

Type of filing	Hours per response	Annual number of filings	Total annual burden hours
Applications	524	3	1,572

[1] Approximately 40% of the filings are additional filings submitted by railroads that had already submitted filings during the time period.

TOTAL ANNUAL BURDEN HOURS—Continued

Type of filing	Hours per response	Annual number of filings	Total annual burden hours
Petitions *	58	12	696
Notices *	19	103	1,957
Interchange commitments	8	4	32
Total annual burden hours			4,257

* Under section 10502, petitions for exemption and notices of exemption are permitted in lieu of an application.

Total ''Non-Hour Burden'' Cost: None identified. Filings are submitted electronically to the Board.

Needs and Uses: As mandated by Congress, persons seeking to construct, acquire or operate a line of railroad and railroads seeking to abandon or to discontinue operations over a line of railroad or, in the case of two or more railroads, to consolidate their interests through merger or a common-control arrangement are required to file an application for prior approval and authority with the Board. *See* 49 U.S.C. 10901–03, 11323–26. Under 49 U.S.C. 10502, persons may seek an exemption from many of the application requirements of sections 10901–03 and 11323–26 by filing with the Board a petition for exemption or notice of exemption in lieu of an application. The collection by the Board of these applications, petitions, and notices (including collection of disclosures of rail interchange commitments under 49 CFR 1121.3(d), 1150.33(h), 1150.43(h), and 1180.4(g)(4)) enables the Board to meet its statutory duty to regulate the referenced rail transactions. In some cases, the actions for which authority is sought may create agreements with interchange commitments. If the interchange commitments limit the future interchange of traffic with third parties, then certain information must be disclosed to the Board about those commitments. 49 CFR 1121.3(d), 1150.33(h), 1150.43(h), 1180.4(g)(4). The collection of this information facilitates the case-specific review of interchange commitments and enables the Board's monitoring of their usage generally.

Under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under 44 U.S.C. 3506(c)(2)(A), federal agencies are required to provide, prior to an agency's submitting a collection to OMB for approval, a 60-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: April 14, 2020.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2020–08162 Filed 4–16–20; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

60-Day Notice of Intent To Seek Extension of Approval: Report of Fuel Cost, Consumption, and Surcharge Revenue

AGENCY: Surface Transportation Board.

ACTION: Notice and request for comments.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek approval from the Office of Management and Budget (OMB) for an extension of the collection of the Report of Fuel Cost, Consumption, and Surcharge Revenue, as described below.

DATES: Comments on this information collection should be submitted by June 16, 2020.

ADDRESSES: Direct all comments to Chris Oehrle, Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001, or to *PRA@stb.gov.* When submitting comments, please refer to ''Paperwork Reduction Act Comments, Rail Service Data.'' For further information regarding this collection, contact Michael Higgins, Deputy Director, Office of Public Assistance, Governmental Affairs, and Compliance, at (202) 245–0284 or at *Michael.Higgins@stb.gov.* Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Comments are requested concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

Description of Collection

Title: Report of Fuel Cost, Consumption, and Surcharge Revenue.

OMB Control Number: 2140–0014.

STB Form Number: None.

Type of Review: Extension without change.

Respondents: Class I [large] railroads.

Number of Respondents: Seven.

Estimated Time per Response: One hour.

Frequency: Quarterly.

Total Burden Hours (annually including all respondents): 28.

Total ''Non-Hour Burden'' Cost: None identified. Filings are submitted electronically to the Board.

Needs and Uses: Under 49 U.S.C. 10702, the Board has the authority to address the reasonableness of a rail carrier's practices. This information collection permits the Board to monitor the current fuel surcharge practices of the Class I carriers. Failure to collect this information would impede the Board's ability to fulfill its statutory responsibilities. The Board has authority to collect information about rail costs and revenues under 49 U.S.C. 11144 and 11145.

Under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third

parties, or the public. Under 44 U.S.C. 3506(c)(2)(A), federal agencies are required to provide, prior to an agency's submitting a collection to OMB for approval, a 60-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: April 14, 2020.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2020–08163 Filed 4–16–20; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR–2020–0001]

Determination on the Exclusion of Bifacial Solar Panels From the Safeguard Measure on Solar Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: On January 23, 2018, the President imposed a safeguard measure on imports of certain solar products pursuant to a Section 201 investigation. On February 14, 2018, the U.S. Trade Representative established procedures for interested persons to request product-specific exclusions from application of the safeguard measure and to comment on the submitted requests. Based on the requests and comments received, the U.S. Trade Representative granted certain requests on June 13, 2019, including a request to exclude from the safeguard measure bifacial solar panels that consist only of bifacial solar cells. On January 27, 2020, the U.S. Trade Representative established procedures to consider whether to maintain, withdraw, or take some other action with respect to the exclusion of bifacial solar panels from the safeguard measure. Based on an evaluation of the comments received, and responses to those comments, and in consultation with the Secretaries of Commerce and Energy, the U.S. Trade Representative has determined that the bifacial solar panel exclusion is undermining the objectives of the safeguard measure. Accordingly, the U.S. Trade Representative will request that the U.S. Court of International Trade lift the order preliminarily enjoining the withdrawal from entering into effect.

DATES: Withdrawal of the exclusion for bifacial solar panels from application of the safeguard measure will apply to imported panels if the Court lifts the preliminary injunction but in no case earlier than May 18, 2020.

FOR FURTHER INFORMATION CONTACT: Victor Mroczka, Office of WTO and Multilateral Affairs, at *vmroczka@ustr.eop.gov* or (202) 395–9450, or Dax Terrill, Office of General Counsel, at *Dax.Terrill@ustr.eop.gov* or (202) 395–4739.

SUPPLEMENTARY INFORMATION:

A. Background

On January 23, 2018, the President issued Proclamation 9693 (83 FR 3541) to impose a safeguard measure under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) with respect to certain crystalline silicon photovoltaic cells and other products containing these cells. The Proclamation directed the U.S. Trade Representative to establish procedures for interested persons to request product-specific exclusions from the safeguard measure. It also authorized the U.S. Trade Representative, after consultation with the Secretaries of Commerce and Energy, to exclude products upon publication of a notice in the **Federal Register** modifying the Harmonized Tariff Schedule of the United States (HTSUS).

On February 14, 2018, the U.S. Trade Representative established procedures to request a product exclusion and opened a public docket. *See* 83 FR 6670 (February 2018 notice). Under the February 2018 notice, requests for exclusion were to identify the particular product in terms of its physical characteristics (such as dimensions, wattage, material composition, or other distinguishing characteristics) that differentiate it from other products subject to the safeguard measure. The February 2018 notice provided that the U.S. Trade Representative would not consider requests identifying the product at issue in terms of the identity of the producer, importer, or ultimate consumer; the country of origin; or trademarks or tradenames. The notice also confirmed that the U.S. Trade Representative only would grant exclusions that did not undermine the objectives of the safeguard measure. The Office of the U.S. Trade Representative (USTR) received 48 product exclusion requests and 213 comments responding to the various requests. The exclusion requests generally fell into seven categories, one of which concerned bifacial solar panels.

On September 19, 2018, and June 13, 2019, the U.S. Trade Representative granted certain product exclusion requests and modified the HTSUS accordingly. *See* 83 FR 47393 and 84 FR 27684. The notice published on June 13, 2019 (June 2019 notice) excluded from application of the safeguard measure ''bifacial solar panels that absorb light and generate electricity on each side of the panel and that consist of only bifacial solar cells that absorb light and generate electricity on each side of the cells.''

On October 9, 2019, the U.S. Trade Representative concluded, based on an evaluation of newly available information and after consultation with the Secretaries of Commerce and Energy, that maintaining the exclusion would undermine the objectives of the safeguard measure. Accordingly, the U.S. Trade Representative published a notice withdrawing the exclusion of bifacial solar panels, effective as of October 28, 2019. *See* 84 FR 54244.

On October 21, 2019, Invenergy Renewables LLC (Invenergy) filed a complaint with the U.S. Court of International Trade alleging that USTR failed to provide notice and comment required under the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.,* before withdrawing the exclusion of bifacial solar panels. Invenergy filed a motion for a preliminary injunction to prevent the withdrawal from entering into effect. The Court issued a preliminary injunction on December 5, 2019, enjoining the U.S. Trade Representative from withdrawing the exclusion on bifacial solar panels from the safeguard measure.

On January 27, 2020 (85 FR 4756), the U.S. Trade Representative issued a notice (January 2020 notice) noting concerns that:

1. The bifacial solar panel exclusion will result in significant increases in imports of bifacial solar panels and therefore will undermine the objectives of the safeguard measure.

2. The precise definition of bifacial solar panels excluded from the safeguard measure may require clarification.

3. The exclusion in the June 2019 notice is broader than the category of products described in the exclusion requests submitted as of March 16, 2018.

The U.S. Trade Representative established procedures and opened a public docket to seek comment on whether to maintain the exclusion of bifacial solar panels from the safeguard measure, withdraw the exclusion, or take some other action with respect to this exclusion. The January 2020 notice confirmed that the U.S. Trade Representative would request the Court to lift the injunction if he determined that it would be appropriate to

withdraw the bifacial exclusion or take some other action with respect to this exclusion.

In the January 2020 notice, the U.S. Trade Representative specifically requested information or views regarding the following, with sufficient evidence to support a particular position:

- Global and United States production and production capacity for bifacial solar panels prior to and following the exclusion of these products in the June 2019 notice, along with any information on expected changes in production and production capacity for the remaining term of the safeguard measure (*i.e.,* until February 6, 2022).
- Projections for the production and importation into the United States of bifacial solar panels for the remaining term of the safeguard measure.
- Import data and entry documentation to establish the level of bifacial solar panels imported into the United States prior to and following the exclusion of these products in the June 2019 notice.
- Projections of demand for bifacial solar panels by companies building or planning to build solar facilities or otherwise to install bifacial solar panels.
- Contracts, purchase orders, or other agreements that establish sales or other transactions, including those between suppliers and customers, regarding bifacial solar panels that have been or will be imported into the United States or will be produced in the United States.
- Production cost and price differential between the manufacture and distribution of monofacial and bifacial solar panels.
- Substitutability or competitiveness between monofacial and bifacial solar panels in the United States.
- Domestic production and production capacity of bifacial solar cells or bifacial solar panels in the United States.
- Whether the U.S. Trade Representative should modify the exclusion to implement a tariff-rate quota (TRQ) on the importation of bifacial solar panels that enter with no additional duty and, if so, the level (*e.g.,* in megawatts) of that TRQ.
- The potential impact, if any, on the domestic workforce and economy in general should the exclusion be withdrawn.
- Any other information or data that interested persons consider relevant to the U.S. Trade Representative's evaluation.

USTR received 15 comments regarding the bifacial exclusion and 49 subsequent comments responding to the initial comments. The determination below is based on these comments.

The U.S. International Trade Commission (ITC) issued a report in March 2020 (March Report) in response to a request from the U.S. Trade Representative for advice regarding potential modifications to the safeguard measure, which provided certain information with regard to the bifacial exclusion. In the March report, the ITC found that bifacial panels are projected to gain a large share of total demand in the coming years due to their power-generation advantages and relative cost competitiveness with monofacial panels—particularly the price advantage that the bifacial exclusion conferred upon them. *See* ITC March Report, at ES–5. Accordingly, the ITC found that the bifacial exclusion (a) likely will result in substantial increases in imports of bifacial panels, and (b) that these products likely will compete with domestically produced solar products in the U.S. market. *See* ITC March Report, at I–4 and 5.

B. Determination Regarding the Bifacial Exclusion

Section 201(a) provides that, when the ITC finds that increased imports are causing or threatening serious injury to a domestic industry, the President ''shall take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs.'' Proclamation 9693 provided that ''[i]f the USTR determines, after consultation with the Secretaries of Commerce and Energy, that a particular product should be excluded, the USTR is authorized, upon publishing a notice of such determination in the **Federal Register**, to modify the HTS provisions created by the Annex to this proclamation to exclude such particular product from the safeguard measure.'' The February 2018 notice provided that the U.S. Trade Representative would ''grant only those exclusions that do not undermine the objectives of the safeguard measures,'' which signifies that an exclusion is not appropriate if it would interfere with the domestic industry's ''positive adjustment to import competition.'' The information and comments provided in response to the January 2020 notice indicate that the bifacial exclusion is doing this.

Specifically, the information and comments support the following findings:

1. Global capacity to produce bifacial solar panels is likely to increase significantly over the next three years.
2. As bifacial solar panel production currently is low in the United States, and the vast majority of bifacial solar panel capacity is foreign, allowing import of bifacial solar panels free of safeguard tariffs disincentivizes U.S. producers from converting existing monofacial production to bifacial production or opening new bifacial production.
3. Imports of bifacial solar panels were rising even before the bifacial exclusion and continued to increase after the exclusion.
4. Demand both globally and domestically for bifacial solar panels is likely to increase significantly for at least the next three years.
5. The cost of producing bifacial solar panels is not more than 10 percent higher than the cost of producing monofacial panels.
6. Bifacial solar panels and monofacial solar panels are substitutes from the perspective of utilities planning solar generating facilities in locations where both are cost-competitive with conventional forms of energy.
7. Bifacial solar panels are expected to offer a 5 to 10 percent improvement in energy output over a same-size monofacial panel, and removing the safeguard tariff will enable their sale for prices below those of monofacial panels, which will depress prices for monofacial panels.
8. The proposed TRQ for bifacial solar panels would allow importation of massive quantities of bifacial solar panels and therefore would duplicate the negative effects of the bifacial exclusion.
9. Competition from low-priced imports prevented domestic producers from selling significant quantities of solar panels in the utility segment during the ITC's original investigation period, and low-priced imports of bifacial solar panels due to the exclusion are likely to have a similar effect under current market conditions.

Moreover, bifacial solar panels are an innovative technology that represents a major area of growth for all producers of solar products. Utilities are the largest and most rapidly growing purchasers of solar panels in the United States. By disincentivizing domestic producers' production of bifacial solar panels, interfering with their ability to increase sales of monofacial and bifacial products into the utility segment, and having a depressive effect on prices for monofacial solar panels, the bifacial exclusion is hindering the domestic

industry's adjustment to import competition.

Therefore, the U.S. Trade Representative has determined that the bifacial exclusion is undermining the objective of the safeguard measure on solar products, does not meet the criteria for a legitimate exclusion, and should be withdrawn. The U.S. Trade Representative has found further and additionally that the findings in the ITC March Report support the conclusion that the bifacial exclusion is undermining the objectives of the safeguard measure.

C. Consultation With Other Government Agencies

As with the initial determination to exclude bifacial solar panels from the safeguard measure, the U.S. Trade Representative consulted with the Secretaries of Commerce and Energy regarding the comments, responses, and supporting evidence received with respect to the January 2020 notice to reach this determination.

Jeffrey Gerrish,

Deputy United States Trade Representative, Office of the United States Trade Representative.

[FR Doc. 2020–08189 Filed 4–16–20; 8:45 am]

BILLING CODE 3290–F0–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Membership in the National Parks Overflights Advisory Group

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Solicitation of applications.

SUMMARY: The Federal Aviation Administration (FAA) and the National Park Service (NPS) invite interested persons to apply to fill three current and three upcoming vacancies on the National Parks Overflights Advisory Group (NPOAG). This notice invites interested persons to apply to fill the openings. The current openings include two representatives of commercial air tour operators and one representative of Native American tribes. The three upcoming openings represent environmental concerns.

DATES: Persons interested in these membership openings will need to apply by May 15, 2020.

FOR FURTHER INFORMATION CONTACT: Keith Lusk, Special Programs Staff, Federal Aviation Administration, Western-Pacific Region Headquarters, 777 S. Aviation Boulevard, Suite 150, El Segundo, CA 90245, telephone: (424) 405–7017, email: *Keith.Lusk@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181, and subsequently amended in the FAA Modernization and Reform Act of 2012. The Act required the establishment of the advisory group within one year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of representatives of general aviation, commercial air tour operators, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

In accordance with the Act, the advisory group provides ''advice, information, and recommendations to the Administrator and the Director—

(1) On the implementation of this title [the Act] and the amendments made by this title;

(2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) On other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.''

Membership

The current NPOAG is made up of one member representing general aviation, three members representing the commercial air tour industry, four members representing environmental concerns, and two members representing Native American tribes. Members serve three year terms. Current members of the NPOAG are as follows:

Melissa Rudinger representing general aviation; Eric Lincoln representing commercial air tour operators, with two current openings; Robert Randall, Dick Hingson, Les Blomberg, and John Eastman representing environmental interests; and Carl Slater representing Native American tribes, with one current opening. The three-year terms of Mr. Hingson, Mr. Blomberg, and Mr. Eastman expire on September 2, 2020.

Selections

In order to retain balance within the NPOAG, the FAA and NPS are seeking candidates interested in filling the two vacant seats representing commercial air tour operators and the vacant seat representing Native American tribes as well as the three upcoming vacancies representing environmental concerns. The FAA and NPS invite persons interested in these openings on the NPOAG to contact Mr. Keith Lusk (contact information is written above in **FOR FURTHER INFORMATION CONTACT**). Requests to serve on the NPOAG must be made to Mr. Lusk in writing and postmarked or emailed on or before May 15, 2020. Any request to fill one of these seats must describe the requestor's affiliation with commercial air tour operators, environmental concerns, or federally-recognized Native American tribes, as appropriate. The request should also explain what expertise the requestor would bring to the NPOAG as related to issues and concerns with aircraft flights over national parks or tribal lands. The term of service for NPOAG members is 3 years. Members may re-apply for another term.

On August 13, 2014, the Office of Management and Budget issued revised guidance regarding the prohibition against appointing or not reappointing federally registered lobbyists to serve on advisory committees (79 **Federal Register** 47482).

Therefore, before appointing an applicant to serve on the NPOAG, the FAA and NPS will require the prospective candidate to certify that they are not a federally registered lobbyist.

Issued in El Segundo, CA on April 6, 2020.

Keith Lusk,

Program Manager, Special Programs Staff,Western-Pacific Region.

[FR Doc. 2020–08176 Filed 4–16–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2020–0115]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Aviation Research Grants Program Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Federal Aviation Administration (FAA) invites public comments about its intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information to be collected will be used to and/or is necessary for the purpose of selecting, evaluating, and determining eligibility of applicants for potential grant award under the FAA Aviation Research Grants Program. Grants awarded under this program are for the potential benefit of the long-term growth of civil aviation and Commercial Space Transportation.

DATES: Written comments should be submitted by June 16, 2020.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field)

By mail: Trina M. Bellamy, Grants Officer, William J. Hughes Technical Center, Building 300, Acquisition & Grants Division, Atlantic City International Airport, Atlantic City, NJ 08405

FOR FURTHER INFORMATION CONTACT: Trina M. Bellamy by email at *Trina.Bellamy@faa.gov;* phone: 609–485–7483.

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: 2120–0559.

Title: Aviation Research Grants Program.

Form Numbers: SF–272, 9550–5, SF–424, SF–3881, SF–269, SF–270.

Type of Review: Renewal of an information collection.

Background: The FAA Aviation Research Grant Program establishes uniform policies and procedures for the award and administration of research grants and cooperative agreements to colleges, universities, not for profit research institutions for research that is of potential benefit to the long-term growth of civil aviation and Commercial Space Transportation. This program implements OMB Circular A–110, Public Law 101–508, Section 9205 and 9208 and Public Law 101–604, Section 107(d). The information is collected through a solicitation that has been published by the FAA. Prospective grantees respond to the solicitation using a proposal format outlined in the solicitation in adherence to applicable FAA directives, statutes, and OMB circulars.

Respondents: 50.

Frequency: On occasion.

Estimated Average Burden per Response: 5 hours.

Estimated Total Annual Burden: 5 hours per respondent.

Issued in Atlantic City, NJ, on April 13, 2020.

Trina M. Bellamy,

Grants Officer,Acquisition & Grants Division/AAQ–600.

[FR Doc. 2020–08190 Filed 4–16–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Orders Limiting Operations at John F. Kennedy International Airport and New York LaGuardia Airport; High Density Traffic Airports Rule at Ronald Reagan Washington National Airport

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

ACTION: Notice of extension of limited waiver of the minimum slot usage requirement.

SUMMARY: The FAA has determined to extend through October 24, 2020, the coronavirus (COVID–19)-related limited waiver of the minimum slot usage requirement at John F. Kennedy International Airport (JFK), New York LaGuardia Airport (LGA), and Ronald Reagan Washington National Airport (DCA) that the FAA has already made available through May 31, 2020. Similarly, the FAA has determined to extend through October 24, 2020, its coronavirus-related policy for prioritizing flights canceled or otherwise not operated as originally intended at designated International Air Transport Association (IATA) Level 2 airports in the United States, for purposes of establishing a carrier's operational baseline in the next corresponding season. These IATA Level 2 airports include Chicago O'Hare International Airport (ORD), Newark Liberty International Airport (EWR), Los Angeles International Airport (LAX), and San Francisco International Airport (SFO). These extensions through October 24, 2020, are available on the same terms as the relief that the FAA already has announced through May 31, 2020.

DATES: Effective upon publication.

FOR FURTHER INFORMATION CONTACT: Bonnie Dragotto, Office of the Chief Counsel, Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–3808; email: *bonnie.dragotto@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In a notice that the FAA issued on March 11, 2020, and published in the **Federal Register** on March 16, 2020 (85 FR 15018), the FAA announced certain relief through May 31, 2020, in light of impacts on air travel demand related to the outbreak of novel 2019 coronavirus (also known as ''SARS-CoV–2,'' causing the disease COVID–19) (''coronavirus''). As announced in that notice, through May 31, 2020, the FAA will waive the minimum usage requirement as to any slot associated with a scheduled nonstop flight between JFK, LGA, or DCA, respectively, and other points that is canceled as a direct result of coronavirus-related impacts.[1] In addition, that notice announced that the FAA will prioritize flights canceled due to coronavirus at designated IATA Level 2 airports in the United States—including ORD, EWR, LAX, and SFO—through May 31, 2020, for purposes of establishing a carrier's operational baseline in the next corresponding season.[2]

In granting this relief, the FAA asserted its expectation that foreign airport slot coordinators would accommodate U.S. carriers with reciprocal relief. The FAA further stated that it would continue to monitor the situation and might augment the waiver as circumstances warrant.

On March 22, 2020, the FAA issued a notice inviting stakeholders to show cause why the FAA should or should not extend the relief provided in the March 11, 2020, notice through the Summer 2020 scheduling season, which

[1] Although DCA and LGA are not designated as IATA Level 3 slot-controlled airports given that these airports primarily serve domestic destinations, the FAA limits operations at these airports via rules at DCA and an Order at LGA that are equivalent to IATA Level 3. The FAA clarifies that the relief provided in the March 11 notice and in this decision extends to all allocated slots, including slots allocated by exemption.

[2] The FAA notes that a minimum usage requirement does not apply at designated IATA Level 2 airports in the United States. Moreover, established procedures under the IATA Worldwide Slot Guidelines allow for the prioritization of such cancelations in subsequent corresponding seasons consistent with the FAA's policy statement.

ends on October 24, 2020. *See* 85 FR 16989 (Mar. 25, 2020). In the March 22, 2020 show cause notice, the FAA reviewed the increased disruption to demand for air travel caused by the coronavirus since the March 11, 2020 notice, and summarized the petitions of many carriers and IATA seeking additional relief from the 80 percent minimum slot usage requirement at U.S. airports through the Summer 2020 scheduling season.

Since the March 22, 2020 show cause notice, the disruption from the coronavirus public health emergency has continued to grow in the United States and worldwide. On March 27, 2020, the Centers for Disease Control and Prevention (CDC) issued a worldwide Level 3 Warning to avoid nonessential international travel due to widespread ongoing transmission of COVID–19. On March 29, 2020, the President announced an extension through April 30, 2020, of the ''Slow the Spread'' campaign that includes social distancing guidelines and a recommendation to avoid discretionary travel. ''Stay-at-home'' orders have been introduced or extended across much of the United States, including for all locations of U.S. slot-controlled and designated IATA Level 2 airports, to varying degrees and durations. Many other countries are also implementing travel restrictions and mandatory quarantines, closing borders, and prohibiting non-citizens from entry.

Consistent with the FAA's tentative determination, on March 31, 2020, the Council of the European Union (EU) enacted a measure to extend relief from the minimum slot usage requirements applicable at slot-controlled airports in the EU through the Summer 2020 scheduling season. In addition, several other foreign coordinators have likewise extended, or announced the intent to extend, relief from minimum slot usage rules through the end of the Summer 2020 season.

The FAA continues to receive cancelation notices at slot-controlled airports in the United States, which include JFK, LGA, and DCA, as well as U.S. airports designated as IATA Level 2, for flights to and from areas with significant coronavirus outbreaks. Nearly every carrier at the U.S. slot-controlled and IATA level 2 airports has experienced significant COVID–19 related schedule impacts, with many carriers indicating that they expect to operate 20% or less of their previously planned and published schedules over the coming months.

Summary of Comments and Information Submitted

The FAA received comments from 31 stakeholders, including IATA, Airlines for America (A4A), the Cargo Airline Association (CAA), SkyTeam Airline Alliance, numerous U.S. and foreign carriers,[3] Airports Council International—North America (ACI–NA), the City of Chicago Department of Aviation (CDA), the Metropolitan Washington Airports Authority (MWAA), and the Port Authority of New York and New Jersey (PANYNJ). One additional comment was received from the Hong Kong Schedule Coordination Office regarding the FAA's stated policy concerning reciprocity, noting Hong Kong's provision of relief from the minimum usage requirement for carriers impacted by COVID–19 through the end of the Summer 2020 scheduling season.

All of the airlines and airline industry advocates expressed support for an extension through the end of the Summer 2020 scheduling season. IATA submits that it forecasts negative impacts from coronavirus on airline revenue amounting to a 259 billion USD loss in passenger revenues worldwide and a 50 billion USD loss in the North American market due to a -27% change in passenger demand. IATA asserts that ''[t]he ability for the airline industry to survive depends on government support and accommodation'' as ''airlines are being forced to ground entire fleets and halt international flying entirely in an effort to survive the devastating impact of this crisis.'' IATA notes that the minimum usage rule is ''well suited to normal operations, but its implementation under such exceptional circumstances is unnecessary and only forces flying that is neither economically or environmentally responsible or sustainable.'' Analysis provided by IATA in support of its position demonstrates that a deep economic recession would be expected to further delay recovery of the airline industry beyond the Summer 2020 season.

Several airlines provided data demonstrating the dramatic decrease in passenger demand for travel through 2020 compared to the same periods in 2019, the details of which they have deemed proprietary.[4] The FAA finds that this data is consistent with the aggregate data provided by IATA and in some cases individual carriers have reported demand at even lower levels than reflected in IATA's report. U.S. carriers have also asserted that the impacts on air travel demand from the COVID–19 crisis are expected to persist well into the summer and an extension of the waiver will allow airlines to create plans to protect jobs, ensure continued air service to the communities served, and position the airline industry for a robust economic recovery. Several foreign carriers also noted that, due to current travel restrictions, they have had to cancel all flights for certain periods. Most carriers point to the uncertainty associated with the public health emergency and indicate that providing relief from the usage requirement will enable carriers to resume flights as quickly as possible in the aftermath of this public health emergency. Some carriers noted plans to increase frequencies at U.S. slot-controlled airports, which will now be postponed as recovery from ''these life-changing events'' is expected to take a significant period of time. Airlines assert that the temporary suspension of minimum slot usage rules will provide necessary flexibility to tailor operating plans to the evolving situation and adjust resources in preparation for the future recovery of demand.

In addition, the CAA and others specifically note that in this time of emergency it would be in the public interest for the FAA to temporarily reallocate to cargo airlines the slots not used for passenger operations during this time period. CAA elaborates that ''[a]s the nation copes with the pandemic and implements 'shelter-in-place' policies, supply chain continuity (including consumer staples, medical and health-related supplies) has become a key element of the private sector's response to the pandemic, and many of these goods travel by air.''

While mindful of industry impacts, the airport authorities and their advocates, including ACI–NA, CDA, MWAA, and PANYNJ, collectively oppose an extension for the full duration of the Summer 2020 season at this time. The PANYNJ and MWAA expressed support for an extension through June 30, 2020, with the

[3] Individual carriers from whom comments were received include Air New Zealand, LOT Polish Airlines, Kuwait Airways, Royal Jordanian, Scandinavian Airlines, Cathay Pacific, Emirates, Delta Air Lines, KLM Royal Dutch Airlines, American Airlines, Avianca, Xiamen, Viva Aerobus, Iberia, JetBlue, Air France, Alitalia, Finnair, Aer Lingus, Southwest Airlines, Etihad, British Airways, United Airlines, and Lufthansa Group.

[4] Five carriers, including U.S. and foreign carriers, submitted detailed information on the reduction in passenger demand related to COVID–19. Each of these carriers marked portions of comments, or entire comments, as proprietary and confidential, and the FAA will maintain the confidentiality of this information to the extent permitted by law.

possibility of further relief per ongoing review as the situation evolves. MWAA explains that this more limited action would provide justifiable relief to the air carriers operating at DCA, and does not preclude the FAA from extending such relief beyond June 30, 2020, should it continue to be necessary. MWAA further asserts that ''waiver decisions should be tailored to address the unusual and unpredictable condition at issue, with the goal to facilitate the swift restoration of the connectivity and economic benefits of air travel as soon as practicable.'' ACI–NA and the CDA similarly comment that ''uncertainty around the evolving pandemic and recovery supports the FAA taking a more precise and targeted approach to slot waivers, as opposed to a broad general waiver, particularly given that most of the slot-controlled facilities covered under this waiver are at predominantly domestic airports.'' ACI–NA further notes that ''some air carriers may be in a diminished financial condition when the recovery begins and therefore may be further incentivized to add capacity more slowly than demand warrants in order to bolster their market pricing power and enhanced yields.''

The PANYNJ commented that it seeks to ensure that valuable infrastructure is put to use as soon as demand warrants. In support of its position, PANYNJ asserts that based on published schedule data, a majority of carriers have made ''sweeping near-term schedule adjustments, though none extending beyond May or June.'' Thus, according to PANYNJ, a waiver of slot requirements extending through October 24, 2020 is not justified by current scheduling behavior.

Discussion

The FAA agrees with the position of the airport authorities that waiver decisions should be tailored to address the unusual and unpredictable condition at issue, with a goal of facilitating the swift restoration of the connectivity and economic benefits of air travel as soon as practicable. The FAA finds that this threshold has been met under the exceptional circumstances surrounding the coronavirus public health emergency, including with respect to the situation domestically. Ample evidence supports a conclusion that the airline industry is likely to need flexible relief for the duration of the Summer 2020 scheduling season.

The FAA is unpersuaded by comments opposing an extension through the end of the Summer 2020 season based on the uncertainty of the recovery timeline. The FAA finds that the proposed alternative extension of one additional month of relief through June 30, with ongoing review for further relief, would unduly burden airlines with added uncertainty. The FAA recognizes that demand is unlikely to immediately return to historic levels as soon as travel restrictions and stay at home orders are lifted. Therefore, the FAA concludes that, beyond the pendency of the coronavirus public health emergency, further accommodating a reasonable buffer period thereafter is appropriate to allow airlines the ability to recall employees, inspect aircraft, market flights, and take other actions necessary to resume normal operations.

Indeed, as noted by the PANYNJ, global air carriers have collectively grounded thousands of aircraft and laid-off or furloughed up to 90% of their workforce. The FAA notes that some airports have also experienced operational changes to adjust to temporary flight reductions such as closing terminals or gates to manage remaining flights more efficiently. These factors will have a significant impact on the speed with which air service can be re-mobilized. Airlines will need flexibility in the recovery period expected to follow this unprecedented disruption. As commenters noted, extending relief through the Summer 2020 season is prudent, with the information presently available and under the circumstances that are reasonably foreseeable at this time, to allow carriers to continue to provide service at a level that reflects depressed demand trends until it is feasible to return to previous levels of flying. Further, providing prospective relief through the end of the Summer 2020 season is expected to incentivize the continued advance return of slots, making them available for temporary reallocation to carriers that are in a position to offer critical public services until slot holders are able to resume normal pre-coronavirus operating levels.[5]

Finally, the FAA notes that published schedule data is preliminary and subject to change; it is therefore not a reliable marker of future airline behavior as the industry awaits the FAA's final decision following the March 22 show cause notice. FAA weekly Cirium schedule information confirms considerable volatility as airlines change and update schedules frequently. Absent an extended grant of relief, airlines would not have the certainty necessary to adjust their schedules beyond May 31, 2020, especially for domestic flights.

The FAA finds that the benefits to the airline industry of providing relief through the end of the Summer 2020 scheduling season significantly outweigh the risks identified in comments opposing that relief. Therefore, the FAA will not penalize airlines for flights canceled or otherwise not operated as originally intended at slot-controlled airports or designated IATA Level 2 airports, stemming from drastically reduced passenger demand caused by the extraordinary and unforeseen coronavirus public health emergency.[6] This decision does not preclude carriers from resuming operations during the Summer 2020 scheduling season should circumstances shift toward recovery more rapidly than currently anticipated.

The FAA agrees with comments from CAA and others that, consistent with established rules in effect at slot-controlled airports in the United States and the FAA's usual practices, it is in the public interest to make unused slots available on a temporary basis to carriers that are providing important public services during this public health emergency. The FAA has already approved additional flights on a non-historic basis at JFK given the number of flight cancelations. The FAA therefore encourages carriers to return any slots that may not be used during the Summer 2020 scheduling season to the FAA as soon as possible for temporary reallocation.

Decision

In consideration of the foregoing information, the comments that the FAA has received, and absent a showing of good cause to take alternative action, the FAA has determined to extend through October 24, 2020, the coronavirus-related limited waiver of the minimum slot usage requirement at JFK, LGA, and DCA that the FAA has already made available through May 31, 2020, on the same terms as the FAA announced in granting that relief.[7] Similarly, the FAA

[5] Consistent with usual practice, the Slot Office has been granting non-historic approval for additional cargo, passenger, repatriation, and other flights based on flight cancelations responsive to the March 11, 2020, usage waiver.

[6] The FAA notes that some flights may not yet be published for sale during the full Summer 2020 scheduling season; the FAA therefore, clarifies in this notice that the reference to ''cancelations'' is used to refer to any scheduled flight or slot approved by the FAA that will not be operated as a direct result of COVID–19 impacts.

[7] The FAA is responsible to develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. *See* 49 U.S.C. 40103(b)(1). The FAA manages slot usage requirements under the authority of 14 CFR 93.227 at DCA and under the authority of Orders at JFK and LGA. *See* Operating Limitations at John F. Kennedy

has determined to extend through October 24, 2020, its coronavirus-related policy for prioritizing flights canceled or otherwise not operated as originally intended at designated IATA Level 2 airports in the United States, for purposes of establishing a carrier's operational baseline in the next corresponding season.

The coronavirus continues to present a highly unusual and unpredictable condition that is beyond the control of carriers. Passenger demand continues to decrease dramatically as a result of the coronavirus. The ultimate duration and severity of coronavirus impacts on passenger demand in the United States and internationally remain unclear. Even after the outbreak is contained, impacts on passenger demand are likely to continue for some time. The FAA has therefore concluded that an extension of relief through October 24, 2020, is appropriate to provide carriers with maximum flexibility during this unprecedented situation and to support the long-term viability of carrier operations at slot-controlled and IATA Level 2 airports in the United States.[8] Continuing relief for this additional period is reasonable to mitigate the impacts on demand for air travel resulting from the spread of the coronavirus worldwide.

The FAA reiterates its expectation that foreign slot coordinators will provide reciprocal relief to U.S. carriers. To the extent that U.S. carriers fly to a foreign carrier's home jurisdiction and that home jurisdiction does not offer reciprocal relief to U.S. carriers, the FAA may determine not to grant a waiver to that foreign carrier. A foreign carrier seeking a waiver may wish to ensure that the responsible authority of the foreign carrier's home jurisdiction submits a statement by email to *ScheduleFiling@dot.gov* confirming reciprocal treatment of the slot holdings of U.S. carriers.

Carriers should advise the FAA Slot Administration Office of coronavirus-related cancelations as soon as possible and return the slots to the FAA by email to *7-awaslotadmin@faa.gov* to obtain relief. The information provided must include the dates for which relief is requested, the flight number, origin/destination airport, scheduled time of operation, the slot identification number, as applicable, and supporting information demonstrating that flight cancelations directly relate to the coronavirus outbreak.

Issued in Washington, DC, on April 9, 2020.

Lorelei Peter,

Assistant Chief Counsel for Regulations.

[FR Doc. 2020–08174 Filed 4–16–20; 8:45 am]

BILLING CODE 4910–13–P

International Airport, 83 FR 46865 (Sep. 17, 2018); Operating Limitations at New York LaGuardia Airport, 83 FR 47065 at 47066 (Sep. 18, 2018).

[8] Nothing in this decision relieves carriers of any minimum air service obligations arising under DOT Order 2020–4–2, posted in Docket DOT–OST–2020–0037.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2020–0387]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Domestic and International Flight Plans

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves extracting flight data such as aircraft, routing speed, etc. from domestic and international flights. FAA Form 7233–1, Flight Plan: Domestic flight plan information is used to govern the flight of aircraft for the protection and identification of aircraft and property and persons on the ground. The information is used by air traffic controllers, search and rescue (SAR) personnel, flight standards inspectors, accident investigators, military, law enforcement, and the Department of Homeland Security.

FAA Form 7233–4, International Flight Plan: International flight plan information is used for the same purposes as domestic flight plans; in addition, it is used by Customs and international controllers.

DATES: Written comments should be submitted by June 16, 2020.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By Mail: Aldwin E Humphrey, 8th Floor, Room 8407, I St. NW, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Jeff Black by email at: *jeff.black@faa.gov;* phone: 214–687–8924.

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: 2120–0026.

Title: Domestic and International Flight Plans.

Form Numbers: FAA form 7233–1 Flight Plan, FAA form 7233–4 International Flight Plan.

Type of Review: Renewal of an information collection.

Background: The Federal Aviation Administration (FAA) is authorized and directed by Title 49, United States Code, paragraph 40103(b), to prescribe air traffic rules and regulations governing the flight of aircraft for the protection and identification of aircraft and property and persons on the ground. Title 14, CFR, Part 91, Subchapter F, prescribes flight rules governing the operation of aircraft within the United States. These rules govern the operation of aircraft (other than moored balloons, kites, unmanned rockets and unmanned free balloons) within the United States and for flights across international borders. Paragraphs 91.153 and 91.169, address flight plan information requirements. Paragraph 91.173 states requirements for when an instrument flight rules (IFR) flight plan must be filed. International Standards Rules of the Air, Annex 2 to the Convention on International Civil Aviation paragraph 3.3 states requirements for filing international flight plans. In addition, a Washington, District of Columbia (DC) Special Flight Rules Area (SFRA) was implemented requiring pilots operating within a certain radius of Washington, DC to follow special security flight rules. The SFRA also includes three (3) general aviation airports in Maryland (College Park, Clinton/Washington Executive/Hyde Field, and Friendly/Potomac Airfield) where pilots are required to file a flight plan regardless of whether they are flying under visual flight rules (VFR) or IFR. This collection of information supports the Department of Homeland Security and the Department of Defense in addition to the normal flight plan purposes.

Almost 100 percent of flight plans are filed electronically. However, as a courtesy to the aviation public, flight

plans may be submitted in paper form. Flight plans may be filed in the following ways:

• Air carrier and air taxi operations, and certain corporate aviation departments, have been granted authority to electronically file flight plans directly with the FAA. The majority of air carrier and air taxi flights are processed in this manner.

• Air carrier and air taxi operators may submit pre-stored flight plan information on scheduled flights to Air Route Traffic Control Centers (ARTCC) to be entered electronically at the appropriate times.

• Pilots may call 1–800–WX–BRIEF (992–7433) and file flight plans with a flight service station specialist who enters the information directly into a computer system that automatically transmits the information to the appropriate air traffic facility. Pilots calling certain flight service stations have the option of using a voice recorder to store the information that will later be entered by a specialist.

• Using internet access, pilots may file flight plans electronically through Direct User Access Terminal System (DUATS) vendors, at no cost to the users. The two vendors allow pilots to store flight data so that minimal additional information is required when filing a flight plan.

• Private and corporate pilots who fly the same aircraft and routes at regular times may prestore flight plans with flight service stations. The flight plans will then be entered automatically into the air traffic system at the appropriate time.

• Pilots who visit a flight service station in person may choose to a file flight plan by using a paper form. The data will then be entered into a computer and filed electronically. The pilot will often keep the paper copy for his/her record.

Respondents: Air carrier and air taxi operations, and certain corporate aviation departments, General Aviation Pilots.

Frequency: On occasion.

Estimated Average Burden per Response: 2.5 minutes per flight plan.

Estimated Total Annual Burden: 718,618 hours.

Issued in Washington, DC, on April 13, 2020.

Aldwin E. Humphrey,

Air Traffic Control Specialist, Office of Flight Service Safety and Operations, AJR–B.

[FR Doc. 2020–08165 Filed 4–16–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Safety Advisory 20–1]

Recommended Actions To Reduce the Risk of Coronavirus Disease 2019 (COVID–19) Among Transit Employees and Passengers

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of Safety Advisory.

SUMMARY: During the COVID–19 public health emergency, transit agencies across the country are continuing to provide millions of trips a day to lifeline services and to carry healthcare and other essential workers to critical jobs. FTA has published Safety Advisory 20–1 recommending that transit agencies develop and implement procedures and practices consistent with all applicable guidance and information provided by the Centers for Disease Control and Prevention (CDC) and the Occupational Safety and Health Administration (OSHA) to ensure the continued safety of transit passengers and employees. A copy of Safety Advisory 20–1 can be found on the FTA website at *https://www.transit.dot.gov/coronavirus.*

FOR FURTHER INFORMATION CONTACT: Henrika Buchanan, Associate Administrator for Transit Safety and Oversight and Chief Safety Officer, FTA, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 366–1783 or *henrika.buchanan@dot.gov.*

K. Jane Williams,

Acting Administrator.

[FR Doc. 2020–08160 Filed 4–16–20; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2019–0132; Notice 1]

Hankook Tire America Corporation, Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: Hankook Tire America Corporation (Hankook) has determined that certain Hankook Ventus V2 Concept 2 tires manufactured by Hankook's indirect subsidiary, Hankook Tire Manufacturing Tennessee, LP, do not fully comply with Federal motor vehicle safety standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles.* Hankook filed a noncompliance report dated November 19, 2019, and subsequently petitioned NHTSA on December 5, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Hankook's petition.

DATES: Send comments on or before May 18, 2020.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

• *Mail:* Send comments by mail addressed to the 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 comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.

• *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.

• Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petitions are granted or denied, notice of the decisions will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. Overview: Hankook has determined that certain Hankook Ventus V2 Concept 2 tires, do not fully comply with paragraph S5.5.1(b) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139).

Hankook filed a noncompliance report dated November 19, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports,* and subsequently petitioned NHTSA on December 5, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of the Hankook's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Tires Involved: Approximately 467 Hankook Ventus V2 Concept 2 tires, size 235/45R17V XL H457, manufactured between October 7, 2019, and October 12, 2019, are potentially involved.

III. Noncompliance: Hankook explains that the noncompliance is due to a mold error in which the subject tires, were marked with the date-code in the Tire Identification Number (TIN) inverted and; therefore, they do not meet the requirements of paragraph S5.5.1 (b) of FMVSS No. 139. Specifically, the date code was printed upside down.

IV. Rule Requirements: Paragraph S5.5.1(b) of FMVSS No. 139, includes the requirements relevant to this petition. Each tire must be marked on each sidewall with the information specified in paragraph S5.5.1(b) and the tire size designation as listed in the documents and publications specified in paragraph S4.1.1 of FMVSS No. 139.

V. Summary of Hankook's Petition: The following views and arguments presented in this section, V. Summary of Hankook's petition, are the views and arguments provided by Hankook. They have not been evaluated by the Agency and do not reflect the views of the Agency. The petitioner described the subject noncompliance and stated their belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Hankook submitted the following reasoning:

1. Under the Safety Act, each FMVSS promulgated by the National Highway Traffic Safety Administration (NHTSA) must be ''practicable, meet the need for motor vehicle safety, and be stated in objective terms.'' 49 U.S.C. 3011l(a). The Safety Act defines ''motor vehicle safety'' as: the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.

2. 49 U.S.C. 30102(a)(9).

The Safety Act exempts manufacturers from the Safety Act's notice and remedy requirements when NHTSA determines that noncompliance is inconsequential as it relates to motor vehicle safety. *See* 49 U.S.C. 30118(d) and 30120(h). Sections 30118(d) and 30120(h) demonstrate Congress's acknowledgment that there are cases where a vehicle fails to meet the requirements of a safety standard, yet the impact on motor vehicle safety is so slight that an exemption from the notice and remedy requirements of the Safety Act is justified. Hankook quoted the following text from BMW of North America, LLC; Jaguar Land Rover North America, LLC; and Autolive, Inc., 84 FR 19994 (May 7, 2019), Decision of Petitions for Inconsequential Noncompliance.

Neither the Safety Act nor Part 556 defines the term ''inconsequential.'' Rather, the agency determines whether particular noncompliance is inconsequential to motor vehicle safety based upon the specific facts before it in a particular petition. In some instances, NHTSA has determined that a manufacturer met its burden of demonstrating that a noncompliance is inconsequential to safety. For example, a label intended to provide safety advice to an owner or occupant may have a misspelled word, or it may be printed in the wrong format or the wrong type size. Where a manufacturer has shown that the discrepancy with the safety requirement is unlikely to lead to any misunderstanding, NHTSA has granted an inconsequentiality exemption, especially where other sources of correct information are available.

3. The noncompliance involves new pneumatic radial tires used on passenger vehicles. Such tires must comply with the labeling and performance requirements of FMVSS 139, which specifies that ''each tire must be labeled with the tire identification number required by 49 CFR part 573.4 on the intended outboard sidewall of the tire.'' FMVSS 139 S5.5.1(b). Part 574(a) states that ''[e]ach new tire manufacturer must conspicuously label on one sidewall of each tire it manufactures . . . a TIN [tire identification number] consisting of 13 symbols and containing the information set forth in paragraphs (b)(1) through (b)(3) of this section.'' Subparagraph (b)(3) requires a date code ''consisting of four numerical symbols. . . [that] must identify the week and year of manufacture.'' 574.5(b)(3.)

4. The purpose of the labeling requirements in Part 574 is to ''facilitate notification to purchasers of defective or nonconforming tires.'' Part 574.2. The date code portion of the TIN is required so that purchasers can identify the week and year of the tire's manufacture in the event the tire is subject to a safety recall.

5. The date-code characters reflect the correct week and year of the tires' manufacture, but the date code is technically out of compliance because the characters are inverted. Despite the inversion, the date code meets the character height requirements of Part 574 and is readily identifiable, permitting tire owners to easily determine the week and year of manufacture.

6. NHTSA has previously granted a petition for inconsequential noncompliance for a similar issue. In granting a petition from Cooper Tire & Rubber Company, 81 FR 43708 (July 5, 2016) the Agency explained:

The Agency believes that in the case of a tire labeling noncompliance, one measure of its inconsequentiality to motor vehicle safety is whether the mislabeling would affect the manufacturer's or consumer's ability to identify the mislabeled tires properly, should the tires be recalled for performance related noncompliance. In this case, the nature of the labeling error does not prevent the correct identification of the affected tires. 49

CFR 574.5 requires the date code portion of the tire identification number to be placed in the last or correct position. In Cooper's case, it is in the right-most position, however, the manufacture date code is upside down. Because the label is located on the tire sidewall, it is not likely to be misidentified. A reader will be able to read the date code, by spinning the tire, and therefore inverting the date code will allow it to easily be read.

As with the Cooper tires, the date code on the subject tires is located on the sidewall, is not likely to be misidentified, and a reader will be able to read and understand the date code. The subject tires otherwise meet the marking and performance requirements of FMVSS No. 139.

7. The labeling noncompliance at issue here is inconsequential to motor vehicle safety: the relevant information remains readily identifiable, the Agency has granted a similar petition in the past, the subject tires otherwise meet the marking and performance requirements of FMVSS No. 139, and Hankook is not aware of any complaints, claims or incidents related to the subject noncompliance.

Hankook concluded by expressing its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that Hankook no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Hankook notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2020–08114 Filed 4–16–20; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0028, Notice 2]

Decision That Nonconforming Model Year 2014 Ferrari LaFerrari Passenger Cars Are Eligible for Importation

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

ACTION: Grant of petition.

SUMMARY: This document announces a decision by the National Highway Traffic Safety Administration that certain Model Year (MY) 2014 Ferrari LaFerrari passenger cars (PCs) that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) are eligible for importation into the United States because the 2014 model year vehicles are substantially similar to vehicles that were originally manufactured for importation into and offered for sale in the United States and certified to all applicable FMVSS (the U.S-certified version of the 2014 Ferrari LaFerrari PCs) or are capable of being altered to comply with all applicable FMVSS.

DATES: This decision became effective on December 10, 2019.

FOR FURTHER INFORMATION CONTACT: Robert Mazurowski, Office of Vehicle Safety Compliance, NHTSA (202–366–1012).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(l)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Under 49 U.S.C. 30141(a)(l)(B), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence that NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC, (Registered Importer R–90–006), of Baltimore, Maryland, petitioned NHTSA to decide whether MY 2014 Ferrari LaFerrari PCs are eligible for importation into the United States. NHTSA published a notice of the petition on October 10, 2019 (84 FR 54727) to afford an opportunity for public comment. The reader is referred to the notice for a thorough description of the petition.

Comments

Two comments were submitted to this docket The first comment stated ''Luxury cars should not be afforded any other exceptions or privileges that non-luxury cars are''. This statement is considered non-substantive as all vehicles are held to the same safety standards regardless of value. The second comment is a detailed analysis in support of granting the petition and echoing the petitioners reasonings.

NHTSA Conclusions

In its petition, J.K. Technologies noted that the original manufacturer, Ferrari, certified the MY 2014 Ferrari LaFerrari PCs to all applicable FMVSS and offered those vehicles for sale in the United States.

NHTSA has reviewed the petition and has concluded that the nonconforming versions of the MY 2014 Ferrari LaFerrari PCs described in the petition are substantially similar to the U.S.-certified versions of the MY 2014 Ferrari LaFerrari PCs and are capable of being readily altered to comply with all applicable FMVSS.

NHTSA has also determined that any RI who imports or modifies one of these vehicles must include in the statement of conformity and associated documents (referred to as a ''conformity package'') it submits to NHTSA under 49 CFR 592.6(d) additional specific proof to confirm that the vehicle was manufactured to conform to, or was successfully altered to conform to, FMVSS No. 138, *Tire Pressure Monitoring Systems,* and FMVSS No. 208, *Occupant Protection*. This proof must include detailed descriptions of all modifications made to achieve conformity with those standards, including a detailed description of systems in place (if any) on the vehicle at the time it was delivered to the RI and a similarly detailed description of the systems in place after the vehicle is altered, including photographs of all required labeling. The description must also include parts assembly diagrams and associated part numbers for all components that were removed from or installed on the vehicle, a description of bow any computer *programming* changes were completed, and a description of bow compliance was verified after alterations were completed. Photographs (*e.g.,* monitor print screen captures) or report printouts, as practicable, must be submitted as proof that any computer reprogramming was carried out successfully.

In addition to the information specified above, each conformity package must also include evidence showing how the RI verified that any changes it made in loading or reprograming vehicle software to achieve conformity with each separate FMVSS did not cause the vehicle to fall out of compliance with any other applicable FMVSS.

Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that MY 2014 Ferrari LaFerrari PCs that were not originally manufactured to comply with all applicable FMVSS are substantially similar to 2014 Ferrari LaFerrari PCs manufactured for importation into and/or sale in the United States, and certified under 49 U.S.C. 30115, are capable of being altered to conform to all applicable FMVSS.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP–609 is the vehicle eligibility number assigned to MY 2014 Ferrari LaFerrari PCs admissible under this notice of final decision.

Authority: (49 U.S.C. 30141(a)(l)(A), (a)(l)(B), and (b)(l); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2020–08149 Filed 4–16–20; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request Concerning Probable or Prospective Reserves Safe Harbor

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning probable or prospective reserves safe harbor.

DATES: Written comments should be received on or before June 16, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Ronald J. Durbala, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Probable or Prospective Reserves Safe Harbor.

OMB Number: 1545–1861.

Revenue Procedure: 2004–19.

Abstract: Revenue Procedure 2004–19 requires a taxpayer to file an election statement with the Service if the taxpayer wants to use the safe harbor to estimate the taxpayers' oil and gas properties' probable or prospective reserves for purposes of computing cost depletion under § 611 of the Internal Revenue Code.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organization.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 50 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 13, 2020.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2020–08129 Filed 4–16–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request Concerning Depreciation and Amortization

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning depreciation and amortization (including information on listed property).

DATES: Written comments should be received on or before June 16, 2020 to be assured of consideration.

ADDRESSES: Direct all written comments to Ronald J. Durbala, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Depreciation and Amortization (including Information on Listed Property).

OMB Number: 1545–0172.

Form Number: 4562.

Abstract: Form 4562 is used to claim a deduction for depreciation and amortization; to make the election to expense certain tangible property under Internal Revenue Code section 179; and to provide information on the business/investment use of automobiles and other listed property. The form provides the IRS with the information necessary to determine that the correct depreciation deduction is being claimed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organization.

Estimated Number of Respondents: 12,313,626.

Estimated Time Per Respondent: 36.41 hours.

Estimated Total Annual Burden Hours: 448,368,447 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 10, 2020.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2020–08131 Filed 4–16–20; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments

AGENCY: Department of the Treasury.

ACTION: Notification.

SUMMARY: This notification announces that information about the Coronavirus Relief Fund for States, Tribal governments, and certain eligible local governments is available on the U.S. Department of the Treasury (Treasury) website, *https://home.treasury.gov/policy-issues/cares/state-and-local-governments,* including instructions for submitting payment information and the form of certification that certain eligible local governments and Tribal governments must submit in order to receive payments from Treasury.

FOR FURTHER INFORMATION CONTACT: Jackson Miles, Special Assistant, Office of the Chief of Staff, at (202) 875–4703.

SUPPLEMENTARY INFORMATION: On March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116–136. Section 601(a)(1) of the Social Security Act as added by section 5001 of the CARES Act provides $150 billion for Treasury to make payments to States (defined to include the District of Columbia, Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa), Tribal governments, and certain eligible local governments with more than 500,000 residents. Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act, requires that States, Tribal governments, or units of local government use the funds received to cover only those costs that (1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19); (2) were not accounted for in the budget most recently approved as of March 27, 2020, for the State or government; and (3) were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020. More information is available on *https://home.treasury.gov/policy-issues/cares/state-and-local-governments.*

Dated: April 13, 2020.

Daniel Kowalski,

Counselor to the Secretary, U.S. Department of the Treasury.

[FR Doc. 2020–08108 Filed 4–16–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

United States Mint

Establish Price Increases for 2020 United States Mint Numismatic Products

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing pricing for United States Mint numismatic products in accordance with the table below:

Product	2020 Retail Price
2020 United States Mint American Innovation™ Four-Coin Proof Set	$24.00
2020 Native American $1 Coin & Currency Set	34.50
2020 United States Mint Limited Edition Silver Proof Set™	170.00

Product	2020 Retail Price
2020 United States Mint Silver Proof Set®	63.25
2020 United States Mint ATB Quarters Uncirculated Set™	16.00
2020 United States Mint ATB Quarters Circulating Set™	10.00
2020 United States Mint Kennedy Half-Dollar 200-Coin Bag	147.00
2020 United States Mint Kennedy Half-Dollar Two-Roll Set	34.50
2020 United States Mint Uncirculated Coin Set®	25.25
End of WWII 75th Anniversary Silver Medal	46.00
End of WWII 75th Anniversary Bronze Medal	6.95
2020 American Eagle One Ounce Silver Uncirculated Coin	54.00
2020 American Eagle One Ounce Silver Uncirculated Coin-Bulk Pack	2,160.00
2020 America the Beautiful Five Ounce Silver Uncirculated Coin	178.25
2020 United States Mint America The Beautiful Quarters Three-Coin Set™	11.50
2020 United States Mint Coin Roll Collector Box	16.50

FOR FURTHER INFORMATION CONTACT: Katrina McDow, Marketing Specialist, Sales and Marketing; United States Mint; 801 9th Street NW; Washington, DC 20220; or call 202–354–8495.

(Authority: 31 U.S.C. 5111, 5112, 5132, & 9701)

Eric Anderson,

Executive Secretary, United States Mint.

[FR Doc. 2020–08082 Filed 4–16–20; 8:45 am]

BILLING CODE P

UNIFIED CARRIER REGISTRATION PLAN

Sunshine Act Meeting Notice; Unified Carrier Registration Plan Board of Directors Meeting

TIME AND DATE: April 23, 2020, from Noon to 3:00 p.m., Eastern time.

PLACE: This meeting will be accessible via conference call and screen sharing. Any interested person may call 877–853–5247 (U.S. toll free), 888–788–0099 (U.S. toll free), +1 669–900–6833 (U.S. toll), or +1 929–205–6099 (U.S. toll), Conference ID 360 608 3231, to participate in the meeting.

STATUS: Parts of this meeting will be open to the public. Parts of this meeting will be closed to the public pursuant to Government in the Sunshine Act Exemptions (4), (9)(B) and (10) (see agenda below for further information).

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the ''Board'') will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of the meeting will include:

Agenda

Open to the Public

I. Welcome and Call to Order—UCR Board Chair

The UCR Board Chair will welcome attendees, call the meeting to order, call roll for the Board, and facilitate self-introductions.

II. Verification of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and in the **Federal Register**.

III. Review and Approval of Board Agenda—UCR Board Chair

For Discussion and Possible Action

Agenda will be reviewed and the Board will consider adoption.

Ground Rules

- ➢ Board action only to be taken in designated areas on agenda
- ➢ Please MUTE your phone
- ➢ Please do NOT place the call on HOLD

V. Approval of Minutes of the March 12, 2020 UCR Board Meeting—UCR Executive Director

For Discussion and Possible Action

Minutes of the March 12, 2020 Board meeting will be reviewed. The Board will consider action to approve.

V. Discussion of COVID–19 Impact on UCR—UCR Board Chair

The UCR Board Chair will lead a discussion on the impact of the COVID–19 pandemic on industry, state operations, and UCR collections.

VI. Update on June UCR Training and Board Meeting—UCR Executive Director

The UCR Executive Director will update the Board on planning for the June 8 and 9, 2020 UCR Training and Board Meeting in light of the COVID–19 pandemic.

VII. Report of FMCSA—FMCSA Representative

FMCSA will provide a report on any relevant activity.

VIII. Updates Concerning UCR Legislation—UCR Board Chair

The UCR Board Chair will call for any updates regarding UCR legislation since the last Board meeting.

IX. Recommendation to United States Department of Transportation (USDOT) Secretary to Designate UCR Board Chairperson—UCR Executive Director

For Discussion and Possible Action

The UCR Executive Director will ask the Board to consider and possibly act to adopt a recommendation to the Secretary of the USDOT designating one member of the Board to serve as chairperson of the Boa

X. Trademark Infringement/Cease and Desist Letter Update—UCR Chief Legal Officer

The UCR Chief Legal Officer will provide an update to the Board on the status of a cease and desist letter sent to a possible trademark infringer on March 4, 2020.

XI. Proposal to Suspend Collection of UCR Fees for the 2020 Registration Year and Either Refund or Provide a Credit for the 2021 Registration Year for Registrants That Have Already Registered and Paid for the 2020 Registration Year—Monte Wiederhold, Board Member

For Discussion and Possible Action

Based on the economic fall-out from the COVID–19 pandemic, Board Member Monte Wiederhold will present a proposal to suspend collection of UCR fees for the 2020 registration year and either refund or provide a credit for the 2021 registration year for registrants that have already registered and paid for the 2020 registration year.

XII. Ratify Extension of Recommended 2020 Enforcement Date—UCR Chief Legal Officer

For Discussion and Possible Action

Depending on the Board decision regarding the previous agenda item, the UCR Chief Legal Officer will lead a discussion on the proposed ratification of the decision by the UCR Board Chair and the UCR Executive Director to further extend the recommended 2020 enforcement date to July 1, 2020. The Board may act to ratify the action of the UCR Board Chair and the UCR Executive Director to extend the recommended enforcement date.

XIII. SUBCOMMITTEE REPORTS

Audit Subcommittee—UCR Audit Subcommittee Chair

A. Update on 2020 State Compliance Reviews—UCR Depository Manager

The UCR Depository Manager will provide an update on the plans for the 2020 state compliance reviews, including contingency plans related to the COVID–19 pandemic.

B. Update on the 2020 New Entrant and Unregistered Solicitation Campaigns—Seikosoft

Seikosoft will provide an updated report on new entrant motor carrier campaigns managed by the National Registration System (NRS), new entrant motor carrier campaigns managed by the states, unregistered motor carrier campaigns managed by the NRS, and unregistered motor carrier campaigns managed by the states.

C. Update on the Non-Universe Motor Carrier Solicitation Campaigns—Seikosoft

Seikosoft will provide an updated report on the solicitation campaign targeting motor carriers identified through roadside inspections to be operating in interstate commerce but identified in MCMIS as either intrastate or inactive.

D. Update on State Carrier Audits and Recommended Extension to June 1, 2020—UCR Audit Subcommittee Chair

For Discussion and Possible Action

The UCR Audit Subcommittee Chair will report on state audit activity to date and emphasize the strategy of using Focused Anomalies Review (FARs) and MCS–150 retreats. The UCR Chief Legal Officer will recommend that the Board ratify the UCR Audit Subcommittee Chair's action to provide states a deadline extension on their annual carrier audits to June 1, 2020.

Finance Subcommittee—UCR Finance Subcommittee Chair

A. Status of 2020 Registration Year Fee Collections—UCR Depository Manager

The UCR Depository Manager will provide an update on the status of collections for the 2020 registration year and compare to 2019 registrations for the equivalent time-period one year ago, to provide perspective on impact from the COVID–19 crisis.

B. Daily Liquidity Account (DLA) Interest Rate Reduction—UCR Depository Manager

The UCR Depository Manager will provide an update on the reduction of the interest rate to the DLA held at Truist Bank (formerly SunTrust).

C. March 2020 Operating Costs—UCR Depository Manager

The UCR Depository Manager will provide an update on the year-to-date costs of operating the UCR Plan and provide insights into how costs compare with the operating budget.

Education and Training Subcommittee—UCR Education and Training Subcommittee Chair

A. Update on Plans to Launch Training Modules—UCR Education and Training Subcommittee Chair

The UCR Education and Training Subcommittee Chair will provide an update on plans to launch an initial wave of training modules by June 2020.

XIV. Contractor Reports—UCR Executive Director

- UCR Executive Director
  The UCR Executive Director will provide a report covering recent activity for the UCR Plan.
- DSL Transportation Services, Inc.
  DSL will report on the latest data on state collections based on reporting from the FARs program.
- Seikosoft
  Seikosoft will provide an update on recent/new activity related to the NRS.
- UCR Administrator (Kellen)—UCR Administrator
  The UCR Administrator will provide its management report covering recent activity for the Depository, Operations, and Communications.

Portions Closed to the Public

Pursuant to the Government in the Sunshine Act at 5 U.S.C. 552b(d)(1), the Board must now vote to approve closing the portions of the meeting dealing with items XV, XVI, XVII and XVIII on the agenda.

The UCR Chief Legal Officer has advised that the Board may, if it votes to do so, close these portions of this meeting pursuant to Government in the Sunshine Act Exemptions (4), (9)(B) and (10). By approving this action, the Board determines that public participation would likely disclose (i) confidential trade secrets, commercial and financial information of one or more UCR contractors, (ii) information for which premature disclosure would likely frustrate implementation of a proposed agency action, and/or (iii) specifically concern the discussion of information, the premature disclosure of which would likely negatively impact the agency's participation in an ongoing civil action or proceeding. Therefore, by approving this action, the Board is invoking Exemptions (4), (9)(B) and (10) to close these portions of the meeting (5 U.S.C. 552b(c)(4), (9)(B) and (10)).

A copy of each of the votes on the closure of each of these four portions of this meeting shall be made publicly available on the UCR Plan website within one day of the votes taken herein (*https://plan.ucr.gov*).

XV. UCR Website and Email Service Addendum—UCR Executive Director

For Discussion and Possible Action

The UCR Executive Director will review a proposed contract addendum for providing website and email services for the UCR Plan. The Board may take action to adopt the proposal.

XVI. UCR Administrator (Kellen) Contract—UCR Executive Director

For Discussion and Possible Action

The UCR Executive Director will review a proposed contract renewal with the UCR Administrator (Kellen). The Board may take action to adopt.

XVII. Data Event Update—UCR Chief Legal Officer

The UCR Chief Legal Officer will provide an update to the Board on the status of certain aspects of the March 2019 data event.

XVIII. Update on Twelve Percent Logistics Litigation—UCR Chief Legal Officer

The UCR Chief Legal Officer will provide an update to the Board on the status of the litigation.

Portions Open to the Public

XIX. Report of Actions Taken During Closed Portion of the Meeting—UCR Board Chair

The UCR Board Chair will report on actions, if any, taken during closed portions of the meeting.

XX. Other Business—UCR Board Chair

The UCR Board Chair will call for any business, old or new, from the floor.

XXI. Adjournment—UCR Board Chair

The UCR Board Chair will adjourn the meeting.

This agenda will be available no later than 5:00 p.m. Eastern time, March 15, 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. 2020–08279 Filed 4–15–20; 4:15 pm]

BILLING CODE 4910–YL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0165

Agency Information Collection Activity Under OMB Review: (Financial Status Report)

AGENCY: Debt Management Center, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Debt Management Center, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: 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. Refer to ''OMB Control No. 2900–0165.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0165'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: John W. Scott, Debt Management Center, Department of Veterans Affairs, 1 Federal Drive, St. Paul, MN 55111, (612) 970–5740 or email *John.Scott335@va.gov.* Please refer to ''OMB Control No. 2900–0165'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Financial Status Report—Form 5655.

OMB Control Number: 2900–0165.

Type of Review: Reinstatement of a previously OMB approved collection with changes.

Abstract: Claimants complete VA FORM 5655 to report their financial status. VA uses the data collected to determine the claimant's eligibility for a waiver of collection, setup a payment plan or for the acceptance of a compromise offer on their VA benefit debt.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 85 FR 22 on February 3, 2020 pages 6020 and 6021.

Affected Public: Individuals or Households.

Estimated Annual Burden: 116,151 hours.

Estimated Average Burden Per Respondent: 60 minutes.

Frequency of Response: Annual.

Estimated Number of Respondents: 116,151.

By direction of the Secretary.

Danny S. Green,

VA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020–08110 Filed 4–16–20; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0663

Agency Information Collection Activity under OMB Review: Pay Now Enter Info Page

AGENCY: Debt Management Center, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Debt Management Center, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: 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. Refer to ''OMB Control No. 2900–0663.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0663'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: John W. Scott, Debt Management Center, Department of Veterans Affairs, 1 Federal Drive, St. Paul, MN 55111, (612) 970–5740 or email *John.Scott335@va.gov.* Please refer to ''OMB Control No. 2900–0663'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Pay Now Enter Info Page.

OMB Control Number: 2900–0663.

Type of Review: Reinstatement of a previously OMB approved collection with changes.

Abstract: Claimants who participated in VA's benefits programs and owe debts to VA can voluntarily make online payments through VA''s Pay Now Enter Info Page website. Data entered on Pay Now Enter Info Page is redirected to the Department of Treasury's Pay.gov website allowing claimants to make payments with credit or debit cards, or directly from their bank accounts. At the conclusion of the transaction, the claimant will receive a confirmation acknowledging the success or failure of the transaction.

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 **Federal Register**

Notice with a 60-day comment period soliciting comments on this collection of information was published at 85 FR 22 on February 3, 2020 pages 6020 and 6021.

Affected Public: Individuals or Households.

Estimated Annual Burden: 31,261 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: Daily.

Estimated Number of Respondents: 187,567.

By direction of the Secretary.

Danny S. Green,

VA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020–08111 Filed 4–16–20; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0474]

Agency Information Collection Activity: Create Payment Request for the VA Funding Fee Payment System

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: 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. Refer to ''OMB Control No. 2900–0474.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, *Attn:* VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0474'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, (202) 421–1354 or email *Danny.Green2@va.gov.* Please refer to ''OMB Control No. 2900–0474'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Create Payment Request for the VA Funding Fee Payment System (VA Form 26–8986).

OMB Control Number: 2900–0474.

Type of Review: Extension of a currently approved collection.

Abstract: A funding fee must be paid to VA before a loan can be guaranteed. The funding fee is payable on all VA-guaranteed loans, *i.e.,* Assumptions, Manufactured Housing, Refinances, and Real Estate purchase and construction loans. The funding fee is not required from veterans who are eligible purple heart recipients, veterans who are in receipt of compensation for service-connected disability, veterans in receipt of compensation for service-connected disability, or veterans who, but for receipt of retirement pay, would be entitled to receive compensation for their service-connected disability. Loans made to the unmarried surviving spouses of veterans (who have died in service or from service-connected disability) are exempted from payment of the funding fee, regardless of whether the spouse has his/her own eligibility, provided that the spouse has used his/her eligibility to obtain a VA-guaranteed loan. For a loan to be eligible for guaranty, lenders' must provide a copy of the Funding Fee Receipt or evidence the veteran is exempt from the requirement of paying the funding fee. The receipt is computer generated and mailed to the lender ID number address that was entered into an Automated Clearing House (ACH) service.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at FR 85, on February 12, 2020 page 8101.

Affected Public: Business or other for profit.

Estimated Annual Burden: 13,334 hours.

Estimated Average Burden Per Respondent: 2 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 400,000.

By direction of the Secretary.

Danny S. Green,

VA Interim Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020–08105 Filed 4–16–20; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0613]

Agency Information Collection Activity: Record Keeping at Flight Schools

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VBA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 16, 2020.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0613'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Danny S. Green at (202) 421–1354.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's

functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 3690(c); 38 CFR 21.4263(h)(3).

Title: Record Keeping at Flight Schools.

OMB Control Number: 2900–0613.

Type of Review: Revision of a currently approved collection.

Abstract: The State approving agencies that approve courses for VA training use these records to determine if courses offered by flight schools should be approved. VA representatives use the records to determine the accuracy of payments made to VA students at flight schools.

Affected Public: Businesses or other for Profit or Not for Profit Schools.

Estimated Annual Burden: 557 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: Annual.

Estimated Number of Respondents: 1,672.

By direction of the Secretary.

Danny S. Green,

VA PRA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020–08141 Filed 4–16–20; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0706]

Agency Information Collection Activity: Application for Reimbursement of National Exam Fee

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VBA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 16, 2020.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0706'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Danny S. Green at (202) 421–1354.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 108–454 and Public Law 111–377; Section 106 of Public Law 108–454, 38 U.S.C. 5101, and 38 CFR 21.1030.

Title: Application for Reimbursement of National Exam Fee.

OMB Control Number: 2900–0706.

Type of Review: Revision of a currently approved collection.

Abstract: VA will use the information collected to determine whether the claimant qualifies to receive reimbursement for a claimed national test, and if so, the amount of the reimbursement.

Affected Public: Individuals and households.

Estimated Annual Burden: 74 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: Once on occasion.

Estimated Number of Respondents: 297.

By direction of the Secretary.

Danny S. Green,

VA PRA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020–08133 Filed 4–16–20; 8:45 am]

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FEDERAL REGISTER

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Part II

Commodity Futures Trading Commission

17 CFR Part 43

Real-Time Public Reporting Requirements; Proposed Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 43

RIN 3038–AE60

Real-Time Public Reporting Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is proposing revisions to its regulations setting forth the real-time public reporting and dissemination requirements for swap data repositories (''SDRs''), derivatives clearing organizations (''DCOs''), swap execution facilities (''SEFs''), designated contract markets (''DCMs''), swap dealers (''SDs''), major swap participants (''MSPs''), and swap counterparties that are neither SDs nor MSPs. The Commission is also proposing revisions that, among other things, change the ''block trade'' definition, change the block swap categories, update the block thresholds and cap sizes, and adjust the delay for the public dissemination of block transactions.

DATES: Comments must be received on or before May 20, 2020.

ADDRESSES: You may submit comments, identified by RIN number 3038–AE60, by any of the following methods:

- *CFTC Website: https://comments.cftc.gov.* Follow the instructions for submitting comments through the Comments Online process on the website.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (''FOIA''), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: David E. Aron, Special Counsel, (202) 418–6621, *daron@cftc.gov,* Division of Market Oversight; Meghan Tente, Acting Associate Director, 202–418–5785, *mtente@cftc.gov,* Division of Market Oversight; Owen J. Kopon, Special Counsel, (202) 418–5360, *okopon@cftc.gov,* Division of Swap Dealer and Intermediary Oversight; Matthew Jones, Special Counsel, (202) 418–6710, *majones@cftc.gov,* Division of Market Oversight; John Roberts, Senior Research Analyst, (202) 418–5943, *jroberts@cftc.gov,* Office of the Chief Economist; in each case at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

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I. Background and Introduction

A. Reporting Rules Review

The Commission's real-time public reporting regulations were adopted in 2012 and are located in part 43 of the Commission's regulations. The 2012 rulemaking set forth regulations that require swap counterparties, SEFs, and DCMs to report publicly reportable swap transactions (''PRST'') to SDRs.[2] In addition, the 2012 RTR Final Rule set forth regulations that require SDRs to publicly disseminate swap transaction and pricing data (''STAPD'') in real-time.[3] In 2013, the Commission adopted a block trade rule[4] to implement the statutory requirements of Commodity Exchange Act (''CEA'') section 2(a)(13)(E)(i)–(iv).[5]

Several years ago, the Division of Market Oversight (''DMO'') conducted a review of the Commission's swap reporting rules. After completing that review, on July 10, 2017, DMO announced[6] its Roadmap to Achieve High Quality Swaps Data (''Roadmap''),[7] consisting of a comprehensive review to, among other things: ''[(i)] Evaluate real-time reporting regulations in light of goals of liquidity, transparency, and price discovery in the swaps market[; and (ii)] Address ongoing issues of reporting packages, prime brokerage, allocations, risk mitigation services/compressions, EFRPs, and post-priced swaps by clarifying obligations and identifying those distinct types of transactions to increase the utility of the real-time public tape.[8]

In April 2019, the Commission adopted its first notice of proposed rulemaking (''NPRM'') as part of the

[1] 17 CFR 145.9. Commission regulations referred to herein are found at 17 CFR chapter I.

[2] Real-Time Public Reporting (''RTR'') of Swap Transaction Data, 77 FR 1182 (Jan. 9, 2012) (''2012 RTR Final Rule''); 17 CFR 43.3(a)(1)–(3) and (b)(1).

[3] *See id.;* 17 CFR 43.3(b)(2).

[4] Procedures to Establish Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades, 78 FR 32866 (May 31, 2013) (''Block Trade Rule'').

[5] CEA section 2(a)(13)(E)(i)–(iv). These CEA sections contain provisions (*e.g.,* time delays) that the Commission must include in its required rulemakings governing public reporting of STAPD for the categories of swaps set forth in CEA sections 2(a)(13)(C)(i) and (ii), 7 U.S.C. 2(a)(13)(C)(i) and (ii).

[6] *See* CFTC Letter 17–33, DMO Announces Review of Swap Reporting Rules in Parts 43, 45, and 49 of Commission Regulations (July 10, 2017), *available at http://www.cftc.gov/idc/groups/public/@lrlettergeneral/documents/letter/17-33.pdf.*

[7] The Roadmap is available at *https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/dmo_swapdataplan071017.pdf.*

[8] Roadmap at 11.

Roadmap review.[9] The 2019 Part 49 NPRM proposes amendments to streamline and clarify the Commission's SDR regulations in parts 23, 43, 45, and 49. Among other things, the 2019 Part 49 NPRM proposes modifications to the existing requirements on SDRs for confirming the accuracy of swap data with swap counterparties, and proposes requiring reporting counterparties to verify the accuracy of swap data.

The Commission has received extensive feedback that addressed many swap reporting topics.[10] In connection with the Roadmap review, DMO conducted extensive outreach with commenters. DMO held calls and meetings, and reviewed the comment letters to better understand the challenges facing market participants and their suggestions on how to improve real-time public reporting. Comments raised on specific issues are discussed in the relevant sections throughout this release.

After reviewing the Roadmap feedback, the Commission is proposing revisions to the following aspects of the part 43 real-time public reporting regulations: The method and timing of real-time reporting and public dissemination, generally and for specific types of swaps; the delay and anonymization of the public dissemination of block trades or large notional trades; the standardization and validation of real-time reporting fields; the delegation of specific authority to Commission staff; and the clarification of specific real-time reporting questions and common issues.[11]

B. Statutory and Regulatory Framework for Real-Time Public Reporting

Section 2(a)(13)(B) of the CEA authorizes the Commission to make STAPD available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery. Section 2(a)(13)(C) requires that the Commission publish rules for the public availability of STAPD. Section 2(a)(13)(D) permits the Commission to require registered entities to publicly disseminate STAPD.

In 2012, the Commission adopted part 43 to implement rules providing for the public availability of STAPD as directed by section 2(a)(13).[12] Section 2(a)(13)(E) required that the Commission's rules contain provisions for: (i) Ensuring the STAPD publicly disseminated does not identify the swap counterparties; (ii) specifying the criteria for large notional swaps (block trades), for particular markets and contracts; (iii) specifying an appropriate time delay for reporting block trades to the public; and (iv) taking into account whether the public disclosure will materially reduce market liquidity. In 2013, the Commission adopted the Block Trade Rule to further implement the statutory requirements of CEA section 2(a)(13)(E)(i)–(iv).[13]

Part 43 currently requires reporting parties to report PRSTs to SDRs as soon as technologically practicable (''ASATP'') after execution.[14] Part 43 defines a PRST as: (i) Any executed swap that is an arm's-length transaction between two parties that results in a corresponding change in the market risk position between the two parties; or (ii) any termination, assignment, novation, exchange, transfer, amendment, conveyance, or extinguishing of rights or obligations of a swap that changes the pricing of the swap.[15]

Part 43 currently defines execution as an agreement by the parties (whether orally, in writing, electronically, or otherwise) to the terms of a swap that legally binds the parties to such terms under applicable law.[16] In addition, execution is defined to occur simultaneously with or immediately following the affirmation of the swap.[17]

For a PRST executed on or pursuant to the rules of a SEF or DCM, a party to such transaction satisfies its requirement to report the transaction to an SDR by executing it on the SEF or DCM.[18] For off-facility transactions, § 43.3(a)(3) specifies the reporting party for PRSTs and requires the reporting party to report the swap to an SDR ASATP following execution.

SDRs are required to ensure that STAPD is publicly disseminated ASATP after receiving it from a SEF, DCM, or reporting party, unless it is subject to a time delay described in § 43.5, in which case the PRST must be publicly disseminated in the manner described in § 43.5.[19] Regulation 43.3(b)(3), the ''embargo rule,'' generally prohibits SEFs, DCMs, SDs, and MSPs from disseminating STAPD to their customers and participants prior to the public dissemination of such data to an SDR.

The STAPD to be disseminated in real-time consists of the data elements listed in appendix A to part 43.[20] SDRs are permitted to request additional information from reporting parties, SEFs, and DCMs, but may not publicly disseminate it.[21] SDRs must comply with other regulations concerning how STAPD is disseminated, including ensuring they do not disclose the identities of the counterparties;[22] restrictions on disclosing underlying assets for certain swaps in the other commodity asset class;[23] and rounding and capping notional or principal amounts.[24]

With respect to the delay for block trades, the Commission assigned swap contracts to ''swap categories'' in the Block Trade Rule for the purpose of applying a common appropriate minimum block size (''AMBS'') to different swap transactions. To create these swap categories, the Commission divided swaps into five asset classes: Interest rates; equity; credit; foreign exchange; and other commodities. The Commission then split these asset classes into the various swap categories.[25]

The Commission phased-in the time delays for the public dissemination of block trades based on four factors: (1) Whether the swap is executed on or pursuant to the rules of a SEF or DCM; (2) the swap's asset class; (3) whether the swap is mandatorily cleared; and (4) whether at least one counterparty is an SD or MSP.[26]

The initial time delays were: 30 minutes for blocks executed on a SEF or DCM;[27] 30 minutes for large notional off-facility swaps (''LNOFs'')[28] subject to mandatory clearing with a SD/MSP counterparty;[29] 4 hours for LNOFs subject to mandatory clearing with no SD/MSP counterparty;[30] 1 hour for

[9] *See generally* Certain Swap Data Repository and Data Reporting Requirements, 84 FR 21044 (May 13, 2019) (''2019 Part 49 NPRM'').

[10] Comment letters are available at *https://comments.cftc.gov/PublicComments/CommentList.aspx?id=1824.*

[11] At the same time, the Commission is proposing a separate NPRM for publication in the **Federal Register** amending the part 45 swap data reporting regulations (''2020 Part 45 NPRM'').

[12] 2012 RTR Final Rule.

[13] *See* Block Trade Rule.

[14] 17 CFR 43.3(a).

[15] 17 CFR 43.2.

[16] *Id.*

[17] *Id.*

[18] 17 CFR 43.3(a)(2).

[19] 17 CFR 43.3(b)(2).

[20] 17 CFR 43.4(b).

[21] 17 CFR 43.4(c).

[22] 17 CFR 43.4(d)(1).

[23] 17 CFR 43.4(d)(4).

[24] 17 CFR 43.4(g)–(h).

[25] 17 CFR 43.6(b).

[26] 17 CFR 43.5.

[27] 17 CFR 43.5(c)(2) and (d)(1). After the first year, the delay reduced to 15 minutes. 17 CFR 43.5(d)(2).

[28] Large notional off-facility swaps are off-facility swaps with notional or principal amounts at or above the AMBS applicable to such PRST and that are not a block trade as defined in § 43.2. 17 CFR 43.2 (definition of ''large notional off-facility swap'').

[29] 17 CFR 43.5(c)(3) and (e)(2)(i). After the first year, the delay reduced to 15 minutes. 17 CFR 43.5(e)(2)(ii).

[30] 17 CFR 43.5(c)(3) and (e)(3)(i). During year 2, the time delay reduced to 2 hours. 17 CFR

Continued

LNOFs not subject to mandatory clearing in the interest rate, credit, foreign exchange, or equity asset classes with at least one SD/MSP counterparty;[31] 4 hours for LNOFs in the other commodity asset class not subject to mandatory clearing with at least one SD/MSP counterparty;[32] and 48 business hours for LNOFs in all asset classes not subject to mandatory clearing for which neither counterparty is an SD/MSP.[33] The Commission has not established post-initial AMBS under § 43.6(f)(1).

II. Proposed Amendments to Part 43

A. § 43.1—Purpose, Scope, and Rules of Construction

The Commission is proposing several non-substantive changes to § 43.1. The Commission is proposing to remove § 43.1(b). Regulation 43.1(b)(1), titled ''Scope,'' states that part 43 applies to all swaps, as defined in CEA § 1a(47),[34] and lists certain categories of swaps as examples. Regulation 43.1(b)(2) states that part 43 applies to registered entities and parties to a swap and lists certain categories of swap parties. The Commission preliminarily believes that these provisions are superfluous, given that the scope of what part 43 covers is clear from various CEA sections and the operative provisions of part 43.

The Commission also proposes to redesignate current § 43.1(c), entitled ''Rules of construction,'' as § 43.1(b). The first sentence of § 43.1(c) currently reads as follows: The examples in this part and in appendix A to this part are not exclusive. The Commission proposes to delete the reference to ''appendix A'' to reflect that the Commission proposes to replace appendix A with new appendix C.[35] The Commission is not proposing to remove this full requirement, however, in case there are other places within part 43 in which market participants would rely on examples.

The Commission also proposes to delete § 43.1(d), entitled ''Severability.'' Regulation 43.1(d) currently provides that if any provision of this part, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or application of such provision to other persons or circumstances which can be given effect without the invalid provision or application. The Commission believes that a severability provision is not appropriate because, without knowing which provision a future court might hold invalid, it is unclear that the Commission would interpret all related remaining provisions of part 43 as continuing to be effective without the invalid provision(s), and the Commission wishes to maintain the flexibility to make that determination at the time of any such holding.

B. § 43.2—Definitions

The Commission is proposing several changes to § 43.2. The Commission is proposing to add a number of new definitions, amend certain existing definitions, and remove certain definitions. Within each of those categories, because § 43.2 is arranged alphabetically, the Commission discusses its proposed changes to § 43.2 in that order as well, except as otherwise noted.

Currently, § 43.2 does not have lettered paragraphs. The Commission is proposing to add new paragraphs (a) and (b) to § 43.2. Proposed new paragraph (a) would contain all of the definitions in current § 43.2, as the Commission proposes to modify them. Proposed new paragraph (b) would provide that terms not defined in part 43 have the meanings assigned to those terms in § 1.3 of the Commission's regulations.

1. Proposed New Definitions

The Commission is proposing to add a definition of ''execution date'' to § 43.2. As proposed, ''execution date'' would mean the date, determined by reference to eastern time, on which swap execution has occurred. This proposed new definition is used in a discussion of proposed changes to the reporting deadline for post-priced swaps (''PPSs'') in section II.C.2. below.

The Commission is proposing to add a definition of ''post-priced swap'' to § 43.2. As proposed, a ''post-priced swap'' would mean an off-facility swap for which the price has not been determined at the time of execution. This proposed new definition is used in a discussion of proposed changes to reporting deadlines for PPSs in section II.C.2. below.

The Commission is proposing to add a definition of ''reporting counterparty.'' The Commission notes that the definition itself would be the same as the current definition of ''reporting party'' in § 43.2. This proposed new definition is used in a discussion of proposed changes to the § 43.3 regulations for the method and timing of real-time public reporting in section II.C.1. below.

The term ''swap execution facility'' is used throughout parts 43 and 45. While part 45 provides a definition of ''swap execution facility,'' no such definition exists in part 43. Therefore, in order to harmonize parts 43 and 45, the Commission is proposing to add a definition of ''swap execution facility'' in part 43. As proposed, ''swap execution facility'' means a trading system or platform that is a swap execution facility as defined in CEA section 1a(50) and in § 1.3 of this chapter and that is registered with the Commission pursuant to CEA section 5h and § 37 of this chapter. The proposed definition reflects the proposed non-substantive minor technical changes that are proposed to the definition of ''swap execution facility'' in the concurrent part 45 proposal.

The Commission is proposing to add a definition of ''swap transaction and pricing data'' to § 43.2. As proposed, ''swap transaction and pricing data'' means all data for a swap in appendix C to part 43 required to be reported or publicly disseminated pursuant to part 43. The Commission believes that providing a definition for the type of data addressed in part 43 should help distinguish between the different types of data reported pursuant to the different reporting regulations.

The Commission is also proposing to add the following six definitions to § 43.2: ''Mirror swap;'' ''pricing event;'' ''prime broker;'' ''prime brokerage agency arrangement;'' ''prime brokerage agent;'' and ''trigger swap.'' These proposed definitions are all related to swaps entered into by prime brokers. Because all of these six proposed definitions are used in the text of proposed § 43.3(a)(6) or are used in one or more of the proposed definitions that are in turn used in proposed § 43.3(a)(6), all of the six proposed definitions are set forth and discussed in section II.C.4. below.

2. Proposed Amendments to Existing Definitions

The Commission is proposing non-substantive ministerial changes to the

43.5(e)(3)(ii). After year 2, the time delay reduced to 1 hour. 17 CFR 43.5(e)(3)(iii).

[31] 17 CFR 43.5(c)(4) and (f)(1). After the first year, the time delay reduced to 30 minutes. 17 CFR 43.5(f)(2).

[32] 17 CFR 43.5(c)(5) and (g)(1). After the first year, the time delay reduced to 2 hours. 17 CFR 43.5(g)(2) and (g)(3).

[33] 17 CFR 43.5(c)(6) and (h)(1). During year 2, the time delay reduced to 36 business hours. 17 CFR 43.5(h)(2). After year 2, the time delay reduced to 24 business hours. 17 CFR 43.5(h)(3).

[34] 7 U.S.C. 1a(47).

[35] As discussed in section II.E.3., the Commission is proposing to delete appendix C in connection with changes to the block delays. In its place, the Commission is proposing to update the list of STAPD elements in current appendix A and move them to appendix C. At the same time, DMO is publishing draft technical specifications on *https://www.cftc.gov* for comment.

following definitions in § 43.2: ''As soon as technologically practicable;'' ''asset class;'' ''novation;'' ''other commodity;'' and ''reference price.''

The Commission is also proposing to amend the definition of ''appropriate minimum block size'' in § 43.2. Currently, § 43.2 defines ''appropriate minimum block size'' to mean the minimum notional or principal amount for a category of swaps that qualifies a swap within such category as a block trade or large notional off-facility swap. This proposed amended definition is used in a discussion of proposed changes to the § 43.5(a) regulations for the time delays for the public dissemination of STAPD in section II.E.1. below.

The Commission is proposing to amend the definition of ''block trade'' in § 43.2. Currently, § 43.2 defines ''block trade'' to mean a PRST that: (1) Involves a swap that is listed on a registered SEF or DCM; (2) occurs away from the registered SEF's or DCM's trading system or platform and is executed pursuant to the registered SEF's or DCM's rules and procedures; (3) has a notional or principal amount at or above the AMBS applicable to such swap; and (4) is reported subject to the rules and procedures of the registered SEF or DCM and the rules described in part 43, including the appropriate time delay requirements set forth in § 43.5.

In November 2018, the Commission issued a comprehensive proposal to amend the SEF regulatory framework.[36] Among other things, the 2018 SEF NPRM proposed to amend the definition of ''block trade'' as part of the proposal's holistic approach to amending the SEF regulatory framework. Given the complex, expansive, and comprehensive nature of the 2018 SEF Proposal, however, the Commission continues to evaluate it.

In the interim, in order to provide regulatory and legal certainty to SEFs and market participants, the Commission recently proposed to address certain outstanding no-action relief, including relief related to block trades that SEFs and market participants have operated under for several years.[37] In particular, in the 2020 SEF NPRM, the Commission proposed an amendment to condition (2) of the block trade definition that would read as follows: (2) Is executed on the trading system or platform, that is not an order book as defined in § 37.3(a)(3), of a registered SEF or occurs away from a registered SEF's or DCM's trading system or platform and is executed pursuant to the registered SEF's or DCM's rules and procedures.[38] While the Commission is proposing additional amendments to the ''block trade'' definition in this NPRM, this NPRM is consistent with the proposed amendments to the definition of ''block trade'' under the 2020 SEF NPRM.

The Commission is proposing to create a two part definition of ''block trade'' in § 43.2. Paragraph (3) of the current definition of ''block trade'' [39] would be incorporated into paragraph (1) of the ''block trade'' definition, which would apply to ''off-facility swaps.'' [40] The proposed ''block trade'' definition from the 2020 SEF NPRM, which would apply to swaps that are not ''off-facility swaps'' and that have specified connections to a SEF or a DCM, would become paragraph (2) of the proposed ''block trade'' definition in this NPRM.[41] Moreover, the Commission believes these proposed changes would eliminate the need for separate definitions of block trades and large notional off-facility swaps.[42] Therefore, as discussed below in section II.B.3., the Commission is removing the definition of large notional off-facility swaps from its regulations.

The Commission is proposing to amend the definition of ''embedded option'' in § 43.2 by removing the reference to ''confirmation'' at the end of the current definition.[43] As proposed, ''embedded option'' would mean any right, but not an obligation, provided to one party of a swap by the other party to the swap that provides the party holding the option with the ability to change any one or more of the economic terms of the swap. As discussed below in section II.B.3., the Commission is proposing to remove references to confirmations in part 43.

The Commission is proposing to amend the definition of ''execution'' in § 43.2 by replacing the reference to execution occurring ''orally, in writing, electronically, or otherwise'' with ''by any method'' to shorten the definition without substantively altering it.[44] In addition, the Commission is proposing to remove the phrase that execution occurs simultaneous with or immediately following the affirmation of the swap.[45] As proposed, ''execution'' would mean an agreement by the parties, by any method, to the terms of a swap that legally binds the parties to such swap terms under applicable law.

The Commission is proposing to amend the definition of ''off-facility swap'' in § 43.2 by removing the reference to ''publicly reportable'' and ''registered.'' [46] The Commission is proposing to remove the requirement that the swap be publicly reportable because determining whether a swap transaction is an off-facility swap depends only on where a swap was executed; whether it is also a PRST is

[36] *See* Swap Execution Facilities and Trade Execution Requirement, 83 FR 61946 (Nov. 30, 2018) (''2018 SEF NPRM'').

[37] *See* Swap Execution Facility Requirements and Real-Time Reporting Requirements, 85 FR 9407 (Feb. 19, 2020) (''2020 SEF NPRM'').

[38] In the 2020 SEF NPRM, the Commission explained that (1) ''permitting execution of block trades on a SEF's non-[o]rder [b]ook trading systems or platforms promotes the statutory SEF goal of promoting the trading of swaps on SEFs'' and (2) ''for swap block trades that are [intended to be cleared] and executed on a SEF's non-[o]rder [b]ook trading system or platform, the Commission believes that the proposed revised definition would (i) allow [futures commission merchants (''FCMs'')] to conduct pre-execution credit screenings in accordance with § 1.73; and (ii) allow SEFs to facilitate those screenings in accordance with the Commission's proposed requirement under § 37.702(b).'' 2020 SEF NPRM at 9419.

[39] This paragraph currently reads: Has a notional or principal amount at or above the appropriate minimum block size applicable to such swap.

[40] As proposed, paragraph (1) of the ''block trade'' definition would read: (1) With respect to an off-facility swap, a publicly reportable swap that has a notional or principal amount at or above the appropriate minimum block size applicable to such swap. The Commission is also proposing to make minor changes to the term ''off-facility swap,'' as discussed below in this section.

[41] As proposed, paragraph (2) of the ''block trade'' definition would read: (2) With respect to a swap that is not an off-facility swap, a publicly reportable swap that: (a) Involves a swap that is listed on a swap execution facility or designated contract market; (b) Is executed on the trading system or platform, that is not an order book as defined in § 37.3(a)(3), of a swap execution facility or occurs away from a swap execution facility's or designated contract market's trading system or platform and is executed pursuant to the swap execution facility's or designated contract market's rules and procedures; (c) Has a notional or principal amount at or above the appropriate minimum block size applicable to such swap; and (d) Is reported subject to the rules and procedures of the swap execution facility or designated contract market and the rules described in this part, including the appropriate time delay requirements set forth in § 43.5.

[42] *See also* n. 38, *supra* (noting the Commission's belief that the 2020 SEF NPRM would promote the statutory goal of promoting trading on SEFs and help to facilitate the pre-execution credit screening by SEFs and FCMs for swap block trades intended to be cleared).

[43] Embedded option is currently defined as any right, but not an obligation, provided to one party of a swap by the other party to the swap that provides the party holding the option with the ability to change any one or more of the economic terms of the swap as those terms previously were established at confirmation (or were in effect on the start date). 17 CFR 43.2.

[44] Execution is currently defined as an agreement by the parties (whether orally, in writing, electronically, or otherwise) to the terms of a swap that legally binds the parties to such swap terms under applicable law. Execution occurs simultaneous with or immediately following the affirmation of the swap. 17 CFR 43.2.

[45] As explained in the following section II.B.3., the Commission is proposing to remove references to ''affirmation'' in § 43.2 because affirmation is not currently used in any of the part 43 regulations.

[46] Off-facility swap is currently defined as any PRST that is not executed on or pursuant to the rules of a registered swap execution facility or designated contract market. 17 CFR 43.2.

irrelevant. The Commission is proposing to remove the reference to ''registered'' for the reasons discussed below in section II.C.1.a.

The Commission is proposing to amend the definition of ''public dissemination and publicly disseminate'' in § 43.2. Currently, § 43.2 defines ''public dissemination and publicly disseminate'' as to publish and make available STAPD in a non-discriminatory manner, through the internet or other electronic data feed that is widely published and in machine-readable electronic format. Separately, current § 43.3(d)(1) requires that SDRs ''publicly disseminate'' STAPD in a consistent, usable, and machine-readable electronic format that allows the data to be downloaded, saved, and analyzed.

The Commission is concerned that the definition of ''public dissemination and publicly disseminate'' currently varies enough from § 43.3(d)(1) to create ambiguity for SDRs as to the format they must use in publicly disseminating STAPD. For instance, the definition of ''publicly disseminate'' requires that access be non-discriminatory, but the requirement for SDRs to ''publicly disseminate'' STAPD in § 43.3(d)(1) does not explicitly require that access be non-discriminatory.

Therefore, the Commission is proposing to re-locate the qualification in current § 43.3(d)(1) that SDRs publicly disseminate STAPD in a consistent, usable, and machine-readable electronic format that allows the data to be downloaded, saved, and analyzed to the definition of ''public dissemination and publicly disseminate'' in § 43.2.[47] As revised, the definition of ''public dissemination and publicly disseminate'' would mean to make freely available and readily accessible to the public [STAPD] in a non-discriminatory manner, through the internet or other electronic data feed that is widely published. Such public dissemination shall be made in a consistent, usable, and machine-readable electronic format that allows the data to be downloaded, saved, and analyzed.[48]

The Commission is proposing to amend the definition of ''trimmed data set'' in § 43.2 by changing the standard deviation used in the calculation of the trimmed data set from four to two for the ''other commodity'' asset class, and from four to three for all other asset classes.[49] This proposed amended definition is used in a discussion of proposed changes to the § 43.6(c) regulations for determining AMBSs and cap sizes discussed in section II.F.2. below.

3. Proposed Removal of Definitions

The Commission is proposing to remove the definition of ''Act'' from § 43.2 because the Commission preliminarily believes the definition of ''Act'' is unnecessary in part 43 because the term is defined in § 1.3.

The Commission is proposing to remove the definition of ''business day'' from § 43.2 because the Commission preliminarily believes that the definition of ''business day'' is unnecessary in part 43 because it is defined in § 1.3. Further, the Commission is proposing to remove the definition of ''business hours'' because it believes the definition of ''business hours'' would no longer be necessary as a result of the Commission's proposal to remove references to ''business hours'' in the § 43.5 regulations for the timing delays for block trades. Those proposed changes are discussed below in section II.E.

The Commission is proposing to remove from § 43.2 the ''confirmation'' definition and the following related definitions: ''Affirmation'' and ''confirmation by affirmation.'' The Commission believes these definitions are unnecessary in part 43, and have created confusion as the terms are not used in any of the regulations in part 43.

The Commission is proposing to remove from § 43.2 the definition of ''executed.'' The Commission believes the current definition is vague. In addition, the Commission believes the proposed definition for ''execution date,'' discussed above in section II.B.1. would provide the specificity that the current ''executed'' definition lacks.

The Commission is proposing to remove from § 43.2 the definition of ''real-time public reporting.'' Currently, § 43.2 defines ''real-time public reporting'' as the reporting of data relating to a swap transaction, including price and volume, ASATP after the time at which the swap transaction has been executed. The CEA currently already defines ''real-time public reporting'' as to report data relating to a swap transaction, including price and volume, ASATP after the time at which the swap transaction has been executed.''[50] Therefore, to avoid creating confusion, the Commission is proposing to remove the definition in part 43 because it would be redundant.

The Commission is proposing to remove the definition of ''reporting party'' because it is proposing to add a definition of ''reporting counterparty'' to § 43.2 that would be the same as the current definition of ''reporting party'' in § 43.2, as discussed above in section II.B.1.

The Commission is proposing to remove the following definitions from § 43.2 as a result of proposed changes to §§ 43.5 and 43.6 for block trades and large notional off-facility swaps: ''Futures related swap,'' ''large notional off-facility swap,'' ''major currencies,'' ''non-major currencies,'' and ''super-major currencies.'' Those proposed changes are discussed below in sections II.E. and II.F.

The Commission is proposing to remove the following definitions from § 43.2 as a result of proposed changes to simplify the definition of ''novation:'' ''Remaining party,'' ''transferee,'' and ''transferor.''

The Commission is proposing to remove the ''unique product identifier'' (''UPI'') definition from § 43.2. ''Unique product identifier'' is currently only used in § 43.4(e). The Commission is proposing to delete current § 43.4(e), which is discussed below in section II.D.1. Therefore, the Commission believes the definition of UPI in § 43.2 is no longer necessary.

The Commission is proposing to remove the definition of ''widely published'' from § 43.2. ''Widely published'' means to publish and make available through electronic means in a manner that is freely available and readily accessible to the public. ''Widely published'' is currently referenced in the definition for ''public dissemination and publicly disseminate'' as the standard by which SDRs must publish data.[51] The Commission believes that the term ''widely published'' has a clear meaning and that the definition therefore is unnecessary and may cause confusion.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 43.2. The Commission requests specific comment on the following:

[47] As discussed below in section II.C.8., the Commission is proposing to remove current § 43.3(d)(1) in conjunction with moving the substance of the requirement to the definition of ''publicly disseminate.''

[48] The revised definition of ''public dissemination and publicly disseminate'' is also discussed below in section II.C.7. with respect to the responsibilities of SDRs to make publicly disseminated STAPD available to the public.

[49] Trimmed data set is currently defined as a data set that has had extraordinarily large notional transactions removed by transforming the data into a logarithm with a base of 10, computing the mean, and excluding transactions that are beyond four standard deviations above the mean. 17 CFR 43.2.

[50] 7 U.S.C. 2(a)(13)(A).

[51] The term ''widely published'' is also used in current § 43.6(g)(4) for currency conversions.

(1) Does the Commission's proposed definition of ''execution date'' present problems for SEFs, DCMs, SDRs, or reporting counterparties? Should the Commission instead adopt a definition that aligns with other regulations, including, for instance, the definition of ''day of execution'' in § 23.501(a)(5)(i)? [52]

C. § 43.3—Method and Timing for Real-Time Public Reporting

1. § 43.3(a)(1)–(3)—Method and Timing for Reporting Off-Facility Swaps and Swaps Executed on or Pursuant to the Rules of a SEF or a DCM

a. § 43.3(a)(1)—General Rule

The Commission is proposing a number of clarifying and substantive changes to § 43.3(a)(1). As background, § 43.3(a)(1) currently: (i) Requires reporting parties to report PRSTs to SDRs ASATP after execution; and (ii) states that for purposes of part 43, a registered SDR includes any SDR provisionally registered with the Commission pursuant to part 49 of this chapter.

The Commission proposes to make a non-substantive amendment to § 43.3(a)(1) by changing the reference to the person required to report a PRST to an SDR ASATP after execution. The current term ''reporting party'' is defined in § 43.2 as the party to a swap with the duty to report a PRST in accordance with this part and section 2(a)(13)(F) of the Act. The Commission proposes to replace the reference to the catchall term ''reporting party'' with more specific references to the persons that, depending on the circumstances, have the reporting obligation for a PRST, namely: A reporting counterparty; a SEF; or a DCM.[53] The Commission is also proposing to slightly reword § 43.3(a)(1) for brevity and to add a cross-reference to proposed §§ 43.3(a)(2)–(6), which address matters such as who must report PRSTs and the timing thereof. Proposed §§ 43.3(a)(2)–(6) would provide additional detail about how (and, in the case of proposed § 43.3(a)(6), whether) the ASATP requirement would apply to real-time public reporting of certain swap transactions and by certain reporting parties. Consequently, the Commission is also proposing to add language to § 43.3(a)(1) stating that it would be ''subject to'' proposed §§ 43.3(a)(2)–(6) to reflect that, with respect to the transactions and persons covered by proposed §§ 43.3(a)(2)–(6), the provisions thereof apply instead of the general ASATP requirement of proposed § 43.3(a)(1).

The Commission also is proposing to add a requirement that the PRST reporting required pursuant to proposed §§ 43.3(a)(1)–(6) be done in the manner set forth in proposed § 43.3(d), discussed below in section II.C.8.

Finally, the Commission proposes to delete the sentence in § 43.3(a)(1) stating that for purposes of this part, a registered SDR includes any SDR provisionally registered with the Commission pursuant to part 49 of this chapter and proposes to replace references to registered SDRs with references to SDRs in proposed § 43.3(a) specifically and throughout part 43.[54] The Commission has also proposed to remove the term ''registered swap data repository'' from part 49.[55] The term ''registered swap data repository'' is not needed in part 49 because a definition of ''swap data repository'' already exists in § 1.3,[56] and the definition is identical to the definition contained in section 1a(48) of the CEA.[57] Because the definitions in § 43.2 have the meanings assigned to them in § 1.3 unless the context otherwise requires, the definition of ''swap data repository'' already applies to part 43, and would continue to apply to part 43, including proposed § 43.3(a), thus removing the need for a separate defined term for ''registered swap data repository.'' Furthermore, the word ''registered'' in the term ''registered swap data repository'' creates unnecessary confusion as to whether part 43 applies to entities that are in the process of registering as SDRs or are provisionally registered pursuant to § 49.3(b); part 43 applies to SDRs whether they are registered or provisionally registered. The Commission emphasizes that removing the defined term ''registered swap data repository'' is a technical amendment that does not in any way modify the requirements applicable to current or future SDRs.

Therefore, revised § 43.3(a)(1) would require reporting counterparties, SEFs, or DCMs to report any PRST to an SDR ASATP after execution subject to § 43.3(a)(2)–(6) and in the manner set forth in § 43.3(d).

b. § 43.3(a)(2)—Swaps Executed on or Pursuant to the Rules of a SEF or a DCM

The Commission is proposing several amendments to § 43.3(a)(2). As background, current § 43.3(a)(2) states that a party to a PRST can satisfy its part 43 real-time public reporting obligations by executing PRSTs on or pursuant to the rules of a SEF or DCM.

The Commission is proposing to replace the language in § 43.3(a)(2) with the current requirement in § 43.3(b)(1). Current § 43.3(b)(1) states that SEFs and DCMs satisfy their real-time public reporting obligations by transmitting STAPD to SDRs ASATP after the PRST was executed on or pursuant to the rules of the trading platform or facility. Revised § 43.3(a)(2) would therefore state that that SEFs or DCMs must report PRSTs executed on or pursuant to the rules of a SEF or DCM ASATP after execution. As a result, § 43.3(a)(2) would contain SEFs' and DCMs' part 43 reporting obligations instead of § 43.3(b)(1). In revising § 43.3(a)(2), the Commission would also replace the reference to a ''registered [SEF]'' with a reference to SEFs because, similar to the reasoning discussed above in section II.C.1.a. with respect to ''registered'' SDRs, the term ''registered'' is unnecessary and could create confusion.[58] The Commission considers the above amendments to be non-substantive.

c. § 43.3(a)(3)—Off-Facility Swaps

The Commission proposes to amend § 43.3(a)(3) in two respects. As background, current § 43.3(a)(3) requires reporting parties to report all off-facility swaps to an SDR for the appropriate

[52] For the purposes of § 23.501, ''day of execution'' means the calendar day of the party to the swap transaction that ends latest, provided that if a swap transaction is—(a) entered into after 4:00 p.m. in the place of a party; or (b) entered into on a day that is not a business day in the place of a party, then such swap transaction shall be deemed to have been entered into by that party on the immediately succeeding business day of that party, and the day of execution shall be determined with reference to such business day. 17 CFR 23.501(a)(5)(i). For the purposes of § 23.501, ''business day'' means any day other than a Saturday, Sunday, or legal holiday. 17 CFR 23.501(a)(5)(ii).

[53] To limit repetition, this change will not be discussed in each section throughout this release. The circumstances dictating which of these specific persons has the PRST reporting obligation are specified in existing and proposed §§ 43.3(a)(2) and (3). Although the Commission is not proposing to change these circumstances, the Commission is proposing other changes to §§ 43.3(a)(2) and (3), which are discussed below in this section II.C.1.

[54] To limit repetition, this change will not be discussed in each section throughout this release.

[55] *See* Certain Swap Data Repository and Data Reporting Requirements, 84 FR 21044, 21101.

[56] *See* 17 CFR 1.3 (definition of ''swap data repository'') (This term means any person that collects and maintains information or records with respect to transactions or positions in, or the terms and conditions of, swaps entered into by third parties for the purpose of providing a centralized recordkeeping facility for swaps).

[57] 7 U.S.C. 1a(48) (The term 'SDR' means any person that collects and maintains information or records with respect to transactions or positions in, or the terms and conditions of, swaps entered into by third parties for the purpose of providing a centralized recordkeeping facility for swaps).

[58] The Commission is proposing this change elsewhere in part 43. To limit repetition in this release, the change will not be discussed repeatedly in this preamble.

asset class in accordance with the rules set forth in part 43 ASATP following execution, and sets out the reporting hierarchy for these PRSTs.[59]

The Commission proposes to clarify in §§ 43.3(a)(3)(iii)–(v) that, in situations where the parties to an off-facility PRST must designate which of them is the reporting counterparty, they must make such designation prior to the execution of the off-facility PRST so that there is no delay in reporting the off-facility PRST pursuant to part 43, as there could be if the parties do not make such designation until after the off-facility PRST is executed or cannot agree on such designation.

Because the Commission is proposing to add part 43 reporting requirements specific to PPSs, clearing swaps, and mirror swaps, respectively, in proposed new §§ 43.3(a)(4)–(6), the Commission proposes to introduce proposed § 43.3(a)(3) with except as otherwise provided in paragraphs (a)(4)–(6) of this section. The proposed part 43 reporting requirements applicable to PPSs, clearing swaps and mirror swaps are discussed below in sections II.C.2.–4., respectively.

2. § 43.3(a)(4)—Post-Priced Swaps

The Commission is proposing new § 43.3(a)(4) to address issues market participants face in reporting PPSs. As background, the purpose of CEA § 2(a)(13), the primary source of the Commission's authority to promulgate real-time public reporting rules, is to authorize the Commission to make [STAPD] available to the public in such form and *at such times as the Commission determines appropriate to enhance price discovery.*[60] Congress also directed the Commission to include provisions in its real-time reporting rules that take into account whether the public disclosure will materially reduce market liquidity.[61] Swap counterparties must report STAPD to the appropriate registered entity *in a timely manner as may be prescribed by the Commission.*[62] The Commission, therefore, has some discretion in determining when STAPD should be reported and publicly disseminated.

Regulation 43.3(a) generally requires the reporting party for each PRST to report it to an SDR ASATP after execution of the transaction. Market participants have raised concerns with complying with the ASATP requirement for a category of swaps with respect to which one or more terms are unknown at the time the swap is executed. One Roadmap commenter suggested that such swaps should only be reported when all of the final primary economic terms of the transaction are determined, rather than at execution.[63]

The Commission understands that these swaps are generally characterized by the price, size and/or other terms of the transaction being contingent upon the outcome of SD hedging, market results during an observation period (a point in time or a longer period), or the occurrence of certain events—such as the price for a swap underlier being determined at the close of trading on a trading platform—that occur after an SD accepts a client request (collectively, ''Variable Terms''). Although the parties may know the non-Variable Terms at the time of execution,[64] the Variable Terms generally are not known until the subsequent dealer hedging or other market activity has taken place because the Variable Terms are, wholly or partly, contingent on the occurrence of such triggers and determined, wholly or in part, by some aspect of such contingencies.

The Commission understands that some market participants do not report swaps with Variable Terms to SDRs until hours, or even days, after the execution thereof.[65] Reporting parties have contended that they report these swaps to SDRs only after the Variable Terms are set because (i) they want to foreclose the possibility of market participants ''front running'' reporting parties' customers'/counterparties' swaps; and (ii) neither reporting parties nor SDRs have the technological processes in place to support reporting prior to the determination of a numerical price, volume or other Variable Terms.

Currently, PPSs and other swaps with Variable Terms not determined at execution (''Variable Terms Swaps'') account for a significant but unknown percentage of swaps that are not reported to SDRs in a timely manner.[66] However, through Roadmap outreach, the Commission has learned that these PPSs and other Variable Terms Swaps may constitute a large percentage of certain market participants' equity derivatives business subject to CFTC jurisdiction.[67] The Commission preliminarily believes that the reporting of PPSs and other Variable Terms Swaps is not consistent across SDs, with some reporting swaps shortly after execution and others not reporting until the Variable Terms are known.

The Commission also preliminarily believes that the reporting of PPSs ASATP after execution but before the price is determined does not serve a significant price discovery function and that the omission of a price, or the use of a placeholder price, by reporting parties who report PPSs before the price is determined may confuse market participants or constitute unhelpful ''noise'' on the public tape. The Commission understands that requiring public reporting of PPSs before their prices are determined could allow market participants to transact in swaps ahead of any necessary hedging by SDs, potentially disadvantaging the SDs' counterparties driving the PPS transactions by increasing the cost of the hedges. This could, in turn, lead such counterparties to forego the use of swaps to achieve their investment or other goals, thereby reducing swap market liquidity.

However, the Commission seeks to balance permitting the delayed reporting of swaps that appear to lack a significant price discovery benefit with encouraging or permitting indefinitely delayed reporting of PPSs. The latter possibility could encourage swap counterparties to structure some of their swaps as PPSs to take advantage of the longer proposed reporting deadline for PPSs.[68]

In light of the foregoing, the Commission is proposing a longer deadline for reporting STAPD for certain PPSs than for PRSTs generally. To effectuate such longer deadline, the

[59] The Commission is not proposing substantive amendments to the reporting hierarchy.

[60] 7 U.S.C. 2(a)(13)(B) (emphasis added).

[61] 7 U.S.C. 2(a)(13)(E)(iv).

[62] 7 U.S.C. 2(a)(13)(F) (emphasis added).

[63] Letter from The International Swaps and Derivatives Association (''ISDA'') and The Securities Industry and Financial Markets Association (''SIFMA'') (''Joint ISDA–SIFMA Letter'') (Aug. 21, 2017) at 10.

[64] ''Execution'' is defined in § 43.2, in relevant part, as an agreement by the parties to the terms of a swap that legally binds the parties to such swap terms under applicable law.

[65] However, this approach is not followed universally: Other market participants report PPSs differently. For example, some market participants report to an SDR PPSs with a price of zero at the time of execution and amend the price reported to the SDR once the price is known.

[66] The percentage is unknown because there is no SDR data field to indicate that a swap is a PPS. Although, as noted above, some reporting parties may report PPSs with zero or blank prices or other Variable Terms and later amend such reports once the Variable Terms are known, there are other reasons a zero price may be reported or that blanks may be reported for the Variable Terms, so there currently is no definitive method of quantifying the scope of the PPS reporting issue.

[67] One market participant estimated that PPSs are a bigger percentage of equity swaps than of any other asset class and constitute approximately 80–90% of CFTC-reportable equity swaps.

[68] However, to the extent the Commission's proposal raises concerns in this regard, § 23.402(a)(1) does require SDs to have written policies and procedures reasonably designed to prevent a swap dealer from evading or participating in or facilitating an evasion of any provision of the CEA or any regulation promulgated thereunder.

Commission proposes to add new § 43.3(a)(4) to its regulations. Proposed § 43.3(a)(4)(i) would permit the reporting counterparty to delay reporting a PPS to an SDR until the earlier of the price being determined and 11:59:59 p.m. eastern time on the execution date.[69] Proposed § 43.3(a)(4)(i) would further provide that, if the price of a PRST that is a PPS is not determined by 11:59:59 p.m. eastern time on the execution date, the reporting counterparty shall report to an SDR by 11:59:59 p.m. eastern time on the execution date all STAPD for such PPS other than the price and any other then-undetermined Variable Terms and shall report each such item of previously undetermined STAPD ASATP after such item is determined.[70] Proposed § 43.3(a)(4)(ii) would provide that the more lenient proposed reporting deadline in § 43.3(a)(4)(i) would not apply to PRSTs with respect to which the price *is* known at execution but one or more other Variable Terms are not yet known at the time of execution.[71]

3. § 43.3(a)(5)—Clearing Swaps

The Commission proposes to amend § 43.3(a) to add DCOs to the reporting counterparty hierarchy for clearing swaps that are PRSTs. As background, in 2016, the Commission adopted rules that, among other things, added DCOs to the hierarchy for determining the reporting counterparty for clearing swaps in § 45.8.[72] Although the Cleared Swap Final Rule added DCOs to the reporting counterparty hierarchy in § 45.8, it did not add DCOs to the reporting hierarchy in part 43.

Most clearing swaps are the result of an original swap being accepted for clearing by a DCO. In these cases, there is no part 43 real-time public reporting for the clearing swaps. For most clearing swaps, there is no conflict between the part 43 and part 45 reporting hierarchies.

However, there are limited circumstances in which DCOs create clearing swaps for which there is no original swap, and the clearing swaps may meet the definition of a PRST in part 43, while also being required to be reported pursuant to part 45. In these circumstances, the part 43 and part 45 reporting hierarchies may conflict. For example, if a DCO enters into PRSTs to manage the default of a clearing member, the DCO would be the reporting counterparty under § 45.8(i) but not under current § 43.3(a)(3).

To avoid this conflict, the Commission proposes to add DCOs to the hierarchy in § 43.3 for clearing swaps. Proposed § 43.3(a)(5) would state that notwithstanding the provisions of paragraphs (a)(1)–(3) of this section, if a clearing swap, as defined in § 45.1 of this chapter, is a PRST, the DCO that is a party to such swap shall be the reporting counterparty and shall fulfill all reporting counterparty obligations for such swap as soon as technologically practicable after execution.

4. § 43.3(a)(6)—Mirror Swaps

As explained above, the CEA authorizes the Commission to make STAPD available to the public in such form and *at such times as the Commission determines appropriate to enhance price discovery.*[73] In 2017, DMO announced its intention to review the reporting regulations to address ongoing issues of reporting prime brokerage transactions.[74] As a result of this review, and as discussed below in this section, the Commission is proposing new regulations in § 43.3(a)(6) to help ensure that the STAPD associated with mirror swaps, which some market participants view as duplicative, non-price-forming data, does not distort the volume of trading activity or unnecessarily impede price discovery for market participants and others who rely on the real-time public tape for those purposes. The Commission notes that the swap data associated with all mirror swaps would be required to be reported to SDRs pursuant to part 45 so the Commission can fulfill its risk monitoring, compliance, and market manipulation responsibilities.

The Commission understands that prime brokerage swaps begin with a counterparty opening an account with a prime broker (''PB'') that grants limited agency powers to the counterparty. These limited powers enable the counterparty, as an agent for the PB, to enter into swaps with approved executing dealers (''ED''), subject to specific limits and parameters, such as credit limits and collateral requirements. The PB also enters into ''give-up'' arrangements with approved EDs in which the EDs agree to negotiate swaps with the counterparty, acting as an agent for the PB, within the specified parameters and to face the PB as counterparty for the resulting ED–PB swap (''ED–PB Swap'').

The Commission understands that in a prime brokerage swap, the counterparty seeks bids for the desired swap from one or more of the approved EDs, within the parameters established by the PB. Once the counterparty and ED agree on the terms, the Commission believes that both the counterparty and ED provide a notice of the terms to the PB, and those terms constitute the ED–PB Swap, which the PB must accept if: The swap is with an approved ED; the counterparty and ED have committed to the material terms; and the terms are within the parameters established by the PB. Once the ED–PB Swap is accepted by the PB, the PB enters into a mirror swap (''Mirror Swap'') with the counterparty with identical economic terms and pricing, subject to adjustment, as a result of the prime brokerage servicing fee.

In 2012, DMO granted no-action relief, subject to conditions described below, where: (i) An ED reports an ED–

[69] By ''11:59:59 p.m. eastern time on the execution date,'' the Commission means 11:59:59 p.m. in the eastern time zone of the United States on the date the relevant swap is executed, irrespective of where either counterparty's headquarters or personnel or office involved in executing the swap are located and irrespective of any other factors. This could result in the reporting counterparty having more or less time to report a swap depending on how close it is to 11:59:59 p.m. eastern time at execution in any time zones relevant to the reporting counterparty reporting the STAPD.

[70] While the proposed definition of ''post-priced swap'' would be a swap for which the price has not been determined at the time of execution, such a swap with *additional* terms that are also not determined at the time of execution would also fall within the proposed ''post-priced swap'' definition. Consequently, if a PPS also has non-price terms that are not determined at the time of execution, a value for such non-price terms must be reported ASATP after it is determined. If a placeholder value that satisfies the allowable values parameters for an unknown Variable Term was previously reported for such undetermined STAPD, then such STAPD must be corrected ASATP after it is determined.

[71] The Commission notes that when the price is known at execution but one or more Variable Terms are not yet known, the reporting counterparty must report the swap ASATP and then amend the swap later to report the Variable Terms.

[72] Amendments to Swap Data Recordkeeping and Reporting Requirements for Cleared Swaps, 81 FR 41736 (June 27, 2016) (''Cleared Swap Final Rule''). Specifically, § 45.8(i) now states, in relevant part, if the swap is a clearing swap, the DCO that is a counterparty to such swap shall be the reporting counterparty and shall fulfill all reporting counterparty obligations for such swap.

[73] 7 U.S.C. 2(a)(13)(B) (emphasis added).

[74] Roadmap at 11. DMO has previously provided no-action relief from the real-time public reporting requirements for swaps executed pursuant to prime brokerage arrangements in response to concerns that reporting both legs of prime brokerage transactions would incorrectly suggest the presence of more trading activity and price discovery in the market than actually exists. *See* CFTC Letter No. 12–53, Time-Limited No-Action Relief from (i) Parts 43 and 45 Reporting for Prime Brokerage Transactions, and (ii) Reporting Unique Swap Identifiers in Related Trades under Part 45 by Prime Brokers (Dec. 17, 2012), *available at https://www.cftc.gov/sites/default/files/idc/groups/public/@lrlettergeneral/documents/letter/12-53.pdf.* The Financial Markets Lawyers Group (''FMLG'') and the International Swaps and Derivatives Association (''ISDA''), which requested the relief that DMO provided in CFTC Letter No 12–53, also sought and received relief from certain reporting requirements of part 45 of the Commission's rules, but this proposal discusses only the part 43 reporting aspects of the relief.

PB Swap under part 43, including any required post-trade event reporting; and (ii) the related Mirror Swap is not reported for part 43 purposes by the ED, PB or any other party, unless there is a modification to the economic terms of the ED–PB swap.[75] The relief was conditioned on: The allocation of part 43 reporting responsibilities being agreed upon by the parties; the ED and the PB each being a registered SD; and the ED–PB Swap and Mirror Swap having identical economic terms and pricing, subject to adjustment in the case of the Mirror Swap as a result of a prime brokerage servicing fee.[76]

CFTC Letter No. 12–53 expired on June 30, 2013, but the Commission believes that concerns about the impact on price discovery of mirror swap STAPD on the public tape are still concerns today. To address these concerns, the Commission is proposing new § 43.3(a)(6), and related definitions in § 43.2(a). The Commission believes the proposed regulations would address issues raised by swaps executed pursuant to prime brokerage arrangements and related mirror swaps.[77]

a. Proposed New Definitions

The Commission is proposing to add the term ''prime brokerage agency arrangement'' to § 43.2(a). ''Prime brokerage agency arrangement'' would mean an arrangement pursuant to which a prime broker authorizes one of its clients, acting as agent for such prime broker, to cause the execution of a trigger swap. The Commission proposes to use the term ''prime brokerage agency arrangement'' in the new proposed definitions of ''prime brokerage agent'' and ''trigger swap'' in § 43.2(a) to establish the parameters of the proposed new definition of a ''mirror swap,'' also in § 43.2(a), which would not be reportable under part 43 if it satisfied the terms of proposed § 43.3(a)(6)(i). The Commission's goal in proposing the ''prime brokerage agency arrangement'' definition and using it in other definitions in § 43.2(a) is to help ensure that the scope of unreported mirror swaps is limited to swaps that are, among other things, integrally related to trigger swaps and their related pricing events.

The Commission is proposing to add the term ''prime brokerage agent'' to § 43.2(a) as a new definition that would mean a client of a prime broker who causes the execution of a trigger swap acting pursuant to a prime brokerage agency arrangement.

The Commission is also proposing to add the term ''prime broker'' to § 43.2(a). ''Prime broker'' would mean with respect to a mirror swap and its related trigger swap, a swap dealer acting in the capacity of a prime broker with respect to such swaps. The Commission proposes to use the term ''prime broker'' in the proposed definitions of ''prime brokerage agency arrangement,'' ''prime brokerage agent,'' and ''trigger swap'' in § 43.2(a), and in proposed § 43.3(a)(6), to establish the parameters of when a ''mirror swap'' would not be reportable under part 43 if it satisfied the terms of proposed § 43.3(a)(6)(i).

The Commission is proposing to add the term ''trigger swap'' to § 43.2(a) as a new definition that would mean a swap: (1) That is executed pursuant to one or more prime brokerage agency arrangements;[78] (2) to which a prime broker is a counterparty or both counterparties are prime brokers; (3) that serves as the contingency for, or triggers, the execution of one or more corresponding mirror swaps; and (4) that is a PRST that is required to be reported to a swap data repository pursuant to this part and part 45 of this chapter. The Commission proposes to use the term ''trigger swap'' as an element of a ''mirror swap,'' which the Commission proposes to make not reportable.[79]

The Commission is proposing to add the term ''pricing event'' to § 43.2(a) as a new definition that would mean the completion of the negotiation of the material economic terms and pricing of a trigger swap. The Commission is proposing to use the term ''pricing event'' in proposed § 43.3(a)(6)(i) to make it clear when execution of a trigger swap, which would be required to be reported under proposed § 43.3(a)(6)(iv) (discussed below in section II.C.4.b.), occurs.

The Commission is proposing to add the term ''mirror swap'' to § 43.2(a) to mean a swap: (1) To which a prime broker is a counterparty or both counterparties are prime brokers; (2) that is executed contemporaneously with a corresponding trigger swap; (3) that has identical terms and pricing as the contemporaneously executed trigger swap (except that a mirror swap, but not the corresponding trigger swap, may include any associated prime brokerage service fees agreed to by the parties and except as provided in the final sentence of this ''mirror swap'' definition); (4) with respect to which the sole price forming event is the occurrence of the contemporaneously executed trigger swap; and (5) the execution of which is contingent on, or is triggered by, the execution of the contemporaneously executed trigger swap. The notional amount of a mirror swap may differ from the notional amount of the corresponding trigger swap, including, but not limited to, in the case of a mirror swap that is part of a partial reverse give-up;[80] *provided, however,* that in such cases, (i) the aggregate notional amount of all such mirror swaps to which the prime broker that is a counterparty to the trigger swap is also a counterparty shall be equal to the notional amount of the corresponding trigger swap and (ii) the market risk and contractual cash flows of all such mirror swaps to which a prime broker that is not a counterparty to the corresponding trigger swap is a party will offset each other (and the aggregate notional amount of all such mirror swaps on one side of the market and with cash flows in one direction shall be equal to the aggregate notional amount of all such mirror swaps on the other side of the market and with cash flows in the opposite direction), resulting in each prime broker having a flat market risk position.

The Commission is proposing to define the term ''mirror swap'' to delineate a group of swaps that do not have to be reported under part 43 if the related conditions set forth in proposed § 43.3(a)(6) are satisfied. The Commission preliminarily believes that because the terms and pricing of a trigger swap and its related mirror swaps are the same, part 43 reporting of both a trigger swap and the related

[75] *See id.* at 5.

[76] *Id.*

[77] The Commission notes that the Securities and Exchange Commission (''SEC'') has adopted a different approach with respect to security-based swaps, with the result that mirror security-based swaps would be PRSTs and thus reported. *See* Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information, 81 FR 53546, at 53583–86 (Aug. 12, 2016) (declining to exempt from public dissemination certain prime brokerage SBSs discussed therein).

[78] The Commission understands that some pricing events (as proposed to be defined in § 43.2(a) and as discussed in the paragraph following the paragraph in the body of the preamble with which this footnote is associated) that result in trigger swaps and related mirror swaps (*e.g.,* in the context of a reverse give-up, which is discussed below in section II.C.4.b.) are negotiated by persons that are acting pursuant to a prime brokerage agency arrangement with more than one prime broker. The Commission understands that some pricing events that lead to related trigger swaps and related mirror swaps (*e.g.,* in the context of a double give-up, which is discussed below in section II.C.4.b.) are negotiated by two persons that are each acting pursuant to a prime brokerage agency arrangement with its respective prime broker.

[79] *See* proposed § 43.6(a)(6)(i), discussed below in section II.C.4.b.

[80] A ''partial reverse give-up'' is described below in section II.C.4.b.

mirror swaps could falsely indicate the occurrence of two or more (depending on how many mirror swaps there are for a given trigger swap) pricing events and incorrectly suggest the presence of more trading activity and price discovery in the market than actually exist.

The Commission preliminarily believes the STAPD of trigger swaps should be reported pursuant to part 43 ASATP after the occurrence of the related pricing event for the following reasons: (1) All the terms of a trigger swap are determined at the time of its related pricing event, so execution of the trigger swap occurs at that time (as stated expressly in proposed § 43.3(a)(6)(i)), so the ASATP clock should ''start ticking'' at that time; (2) any delay in the mirror swap counterparties learning of the related trigger swap terms should not delay part 43 reporting of the trigger swap given that the mirror swaps would not be reported under proposed § 43.3(a)(6);[81] (3) one or both of the parties to a pricing event often are the reporting counterparties in other swaps so have the infrastructure in place to report the related trigger swap ASATP after the execution of the pricing event; and (4) to the extent that (3) is untrue, one or more of the prime brokers involved in the related mirror swaps (all of whom currently are SDs, the Commission understands) can amend the terms of their prime brokerage arrangements (as proposed to be defined in § 43.2) to require the parties thereto who are also parties to pricing events to ensure that their prime brokers learn of the terms of the pricing events in a manner that is sufficiently timely to permit their prime brokers to report trigger swaps ASATP after the execution of the related pricing events.

The Commission is proposing to use the word ''contemporaneously'' in clause (2) of the ''mirror swap'' definition (*i.e.,* a swap ''that is executed contemporaneously with a corresponding trigger swap'') rather than ''simultaneously'' to reflect the fact that it may take some time for potential parties to a mirror swap to receive the terms of such mirror swap from the parties to the related trigger swap and to verify that the terms of the potential mirror swap are within the parameters established by the governing prime brokerage arrangement, as proposed to be defined in § 43.2(a). However, the Commission expects the parties to a trigger swap to promptly convey those terms to the relevant prime broker(s) that would be a party or parties to related mirror swaps; any delay in conveying such terms should not be used as an opportunity to find additional counterparties to take part in unreported mirror swaps.[82] The Commission may construe any purported mirror swaps resulting from such activity as not executed contemporaneously with the related trigger swap, and thus not within the scope of the proposed mirror swap definition or, as a result, proposed § 43.3(a)(6), and therefore reportable under §§ 43.3(a)(1)–(3), as applicable, depending on the facts and circumstances.

The Commission is proposing the language regarding associated prime brokerage service fees in clause (3) of the proposed ''mirror swap'' definition (*i.e.,* as is relevant here, a swap that has identical terms and pricing as the contemporaneously executed trigger swap (except that a mirror swap, but not the corresponding trigger swap, may include any associated prime brokerage service fees agreed to by the parties)) to reflect that a mirror swap may contain fees that a prime broker that is a counterparty to a mirror swap may charge its counterparty to that mirror swap as a fee for serving as a prime broker in such swap. The Commission understands that prime brokers typically charge their clients a service fee for the swap intermediation service that prime brokers provide (*i.e.,* serving as swap counterparties in lieu of counterparties that prime brokers' clients would prefer not to face as swap counterparties for credit reasons). The prime broker service fee is meant to reflect prime brokers' credit intermediation costs as well as prime brokers' back-office and middle-office administrative services costs related to trigger swaps and mirror swaps (*e.g.,* booking, reconciling, settling and maintaining such trigger swaps and mirror swaps). The prime broker service fee is typically agreed upon by a prime broker and its client before a pricing event. To be considered prime brokerage service fees for purposes of clause (3) of the proposed ''mirror swap'' definition, such fees must be limited to the foregoing purpose and cannot contain any other elements.[83]

b. Other Proposed Regulations

Proposed new § 43.3(a)(6)(i) would provide that a mirror swap, which the Commission is proposing to define in § 43.2(a), as discussed above in section II.B.1., is not a PRST. Proposed new § 43.3(a)(6)(i) would also state that, for purposes of determining when execution occurs under §§ 43.3(a)(1)–(3), execution of a trigger swap shall be deemed to occur at the time of the pricing event for such trigger swap.

Proposed new § 43.3(a)(6)(ii) would provide parameters for determining which counterparty is the reporting counterparty for a given trigger swap in situations where it is unclear, with respect to a given set of swaps, which are mirror swaps and which is the related trigger swap. More specifically, proposed new § 43.3(a)(6)(ii) would state that if, with respect to a given set of swaps, it is unclear which are mirror swaps and which is the related trigger swap (including, but not limited to, situations where there is more than one prime broker counterparty within such set of swaps and situations where the pricing event for each set of swaps occurs between prime brokerage agents of a common prime broker), the PBs would be required to determine which swap is the trigger swap and which are mirror swaps. Proposed new § 43.3(a)(6)(ii) would also specify that, with respect to the trigger swap to which a PB is a party, the counterparty that falls within the highest level of the reporting counterparty determination hierarchy set forth in § 43.3(a)(3) is the reporting counterparty; proposed new § 43.3(a)(6)(ii) would further specify that, if both counterparties fall within the same level of that hierarchy, they must determine who is the reporting counterparty for such trigger swap pursuant to §§ 43.3(a)(3)(iii), (iv), or (v), as applicable. Proposed new § 43.3(a)(6)(ii) would add that, notwithstanding the foregoing, if the counterparty to a trigger swap that is not a PB is an SD, then that counterparty will be the reporting counterparty for the trigger swap.

[81] To the extent a trigger swap is outside the permitted scope of a prime brokerage arrangement, as proposed to be defined in § 43.2(a), the relevant party can cancel it. The Commission understands that this happens today but preliminarily believes that the potential for a trigger swap to be cancelled as a result of its being outside the scope of the relevant prime brokerage arrangement, as proposed to be defined in § 43.2(a), should not delay reporting STAPD.

[82] This could include, but would not be limited to, a potential party to a mirror swap receiving the terms of a related trigger swap from one party to the trigger swap and seeking additional counterparties to a mirror swap while waiting to receive the matching terms of the trigger swap from the other party thereto.

[83] For example, the Commission would not consider a purported prime brokerage service fee providing the prime broker or its counterparty exposure to a commodity to be a prime brokerage service fee within the meaning of clause (3) of the proposed ''mirror swap'' definition, as a result of which the related ''mirror swap'' would not be a mirror swap, and thus would not be within the scope of proposed § 43.3(a)(6) (discussed below in section II.C.4.b.), and therefore would be reportable under §§ 43.3(a)(1)–(3), as applicable, depending on the facts and circumstances.

Proposed new § 43.3(a)(6)(iii) would provide that, if, with respect to a given set of swaps, it is clear which are mirror swaps and which is the related trigger swap, the reporting counterparty for the trigger swap shall be determined pursuant to § 43.3(a)(3).

Proposed new § 43.3(a)(6)(iv) would provide that trigger swaps described in proposed § 43.3(a)(6)(ii) (situations in which it is unclear which of a set of swaps are mirror swaps and which is the related trigger swap) and (iii) (situations in which it is clear which of a set of swaps are mirror swaps and which is the related trigger swap) shall be reported pursuant to the requirements set out in §§ 43.3(a)(2) or (a)(3), as applicable, except that the provisions of proposed § 43.3(a)(6)(ii), rather than of proposed § 43.3(a)(3), shall govern the determination of the reporting counterparty for purposes of the trigger swaps described in proposed § 43.3(a)(6)(ii).

CFTC Letter No. 12–53 provided relief for what it termed a ''Typical Prime Brokerage Transaction'' in which an ED that is an SD agrees with its counterparty to the terms of matching swaps entered into between the ED and the counterparty's PB and between the PB and the counterparty. The Commission understands that the scope of proposed § 43.3(a)(6) would expand the scope of CFTC Letter No. 12–53 in that it would encompass both the ''typical prime brokerage transactions'' covered by CFTC Letter No. 12–53 and at least three other forms of PB transactions: reverse give-up PB swaps; partial reverse give-up PB swaps; and double give-up PB swaps. The Commission understands that other forms of prime brokerage swap transactions also may be covered by proposed § 43.3(a)(6) and does not intend, by describing herein reverse give-up PB swaps, partial reverse give-up PB swaps, and double give-up PB swaps, to limit the scope of proposed § 43.3(a)(6) to such forms of prime brokerage swap transactions.

In a reverse give-up PB swap structure, the executing broker (''EB'') [84] and one or more clients of a PB, or of both PBs involved in the structure,[85] negotiate swap terms forming the basis of a trigger swap entered into between the EB and a PB [86] and related mirror swaps entered into between the PB and one or more other PBs, the other PB(s) and one or more clients and, in some reverse give-up prime brokerage swap structures, the client and the EB-facing PB.[87] In a double give-up prime brokerage swap structure, a client of one PB and a client of a different PB negotiate with each other swap terms forming the basis of a trigger swap entered into between the two PBs [88] and of the related mirror swaps entered into between each of the PBs and its respective client.

CFTC Letter No. 12–53 permitted the ED to be the reporting party for the ED–PB Swap, subject to the conditions that the ED and PB allocated reporting responsibility between them and both parties were SDs. Proposed § 43.3(a)(6)(ii) would differ from the reporting structure in CFTC Letter No. 12–53 in that proposed § 43.3(a)(6)(ii) would instead incorporate the reporting counterparty hierarchy of § 43.3(a)(3). The goal of proposed § 43.3(a)(6)(ii) is to have each trigger swap be reported ASATP after its pricing event. The Commission understands that one counterparty to a trigger swap often will have participated in negotiating the related pricing event, so should be well-placed to report the trigger swap pursuant to part 43 in such circumstances, particularly if that counterparty is an SD, given that SDs are experienced with part 43 reporting. If the PB is an SD, but its counterparty is not, the PB would be the reporting counterparty for the trigger swap even though the PB may not learn of the pricing event for some time, although, pursuant to proposed § 43.3(a)(7), discussed below in section II.C.5., it could contract with a third-party service provider (which could include a party to the pricing event (*e.g.,* an EB)) to handle such reporting if it believes reporting such PRST in a timely manner (*i.e.,* ASATP after the pricing event, per proposed § 43.3(a)(6)(i)) would be problematic for it, while remaining fully responsible for such reporting. Similarly, even in circumstances in which neither counterparty to a trigger swap participated in negotiating the related pricing event (*e.g.,* a double give-up prime brokerage swap structure), such counterparties can contract with a third-party service provider to handle such reporting if they believe that reporting such trigger swap in a timely manner (*i.e.,* ASATP after the pricing event, per proposed § 43.3(a)(6)(i)) would be problematic for them, while remaining fully responsible for such reporting.

5. § 43.3(a)(7)—Third-Party Facilitation of Data Reporting

The Commission proposes to add § 43.3(a)(7) to provide for the third-party facilitation of data reporting. As background, in the 2012 RTR NPRM, Real-Time Public Reporting of Swap Transaction Data, 75 FR 76140 (Dec. 7, 2010), the Commission noted that SEFs, DCMs, and SDRs may enter into contractual relationships with third party service providers to facilitate reporting, while remaining responsible for the reporting requirement under part 43.[89] Regulation 45.9 contains a parallel provision for part 45 reporting. Regulation 45.9 provides for third-party facilitation of data reporting, and specifies that registered entities and swap counterparties that contract with third-party service providers remain fully responsible for the reporting requirement under part 45. Proposed § 43.3(a)(7) would codify the Commission's previously-stated position with respect to third party facilitation of part 43 reporting in a manner consistent with § 45.9 and expressly expand it to reporting parties for off-facility swaps. Therefore, proposed § 43.3(a)(7) would state that any person required by part 43 to report STAPD, while remaining fully responsible for reporting as required by part 43, may contract with a third-party service provider to facilitate reporting.

[84] The Commission understands that EBs are always SDs today, but proposed § 43.3(a)(6) does not require EBs to be SDs. EBs play the same role in the prime brokerage swap transactions discussed in today's proposal that EDs did in CFTC Letter No. 12–53. Thus, other than when it is discussing CFTC Letter No. 12–53, which used the term ''ED,'' the Commission is using the term EB rather than ED in the preamble to reflect the fact that proposed § 43.3(a)(6) does not require EBs to be SDs.

[85] As noted above, the Commission understands that some pricing events (as proposed to be defined in § 43.2(a) and as discussed in the paragraph following the paragraph in the body of the preamble with which this footnote is associated) that result in trigger swaps and related mirror swaps (*e.g.,* in the context of a reverse give-up, which is discussed below in section II.C.4.b.) are negotiated by persons that are acting pursuant to a prime brokerage agency arrangement with more than one prime broker.

[86] The EB and the PB client are said to ''give up'' the swap that otherwise would have been entered into between the EB and the PB client to the EB and PB. That ''given up'' swap becomes the trigger swap.

[87] The mirror swaps between the PBs, pursuant to instructions from a client, are said to be ''reverse give-ups'' from the EB-facing PB to the other PB(s). If the reverse give-up is for 100% of the notional of the trigger swap, then the PB that is a swap counterparty to the EB in the trigger swap will not also be a swap counterparty to a client in a mirror swap. If the reverse give-up is for less than 100% of the notional of the trigger swap (*i.e.,* a partial reverse give-up), then there will be a mirror swap between: the EB-facing PB and at least one client participating in the partial reverse give-up; the EB-facing PB and each of the other PBs participating in the partial reverse give-up; and each of such other PBs and at least one of the clients participating in the partial reverse give-up.

[88] The two clients are said to ''give up'' to their respective PBs the swap that otherwise would be entered into between the two clients. That ''given up'' swap becomes the trigger swap.

[89] Real-Time Public Reporting of Swap Transaction Data, 77 FR 1182, 1201.

6. § 43.3(b)—Public Dissemination of Swap Transaction and Pricing Data

The Commission is proposing several revisions to the rules for SEFs, DCMs, SDs, MSPs, and SDRs in disseminating STAPD. First, as discussed above in section II.C.1.b., the Commission is proposing to move the substance of current § 43.3(b)(1) to revised § 43.3(a)(2).[90]

Second, the Commission is proposing to relocate current § 43.3(b)(2) to § 43.3(b)(1) and revise the regulation. As background, current § 43.3(b)(2) states that registered SDRs shall ensure that STAPD is publicly disseminated ASATP after such data is received from a SEF, DCM, or reporting party, unless such PRST is subject to a time delay described in § 43.5, in which case the PRST shall be publicly disseminated in the manner described in § 43.5.

The Commission is also proposing to replace the language in current § 43.3(b)(2) stating that SDRs shall ''ensure'' STAPD is publicly disseminated with an SDR shall publicly disseminate STAPD ASATP to clarify that SDRs must disseminate the data, rather than ensure it is done. The Commission believes that this revision should not result in any changes in current practice for SDRs. Finally, the Commission is proposing to replace the two references to ''publicly reportable swap transaction'' with references to ''swap transaction and pricing data'' for consistency both within proposed § 43.3(b)(1) and with § 43.5, which is cross-referenced by current § 43.3(b)(2) and would continue to be cross-referenced by proposed § 43.3(b)(1). Therefore, proposed § 43.3(b)(1) would state that an SDR shall publicly disseminate STAPD ASATP after receiving it from a SEF, DCM, or reporting counterparty, unless the STAPD is subject to a time delay described in § 43.5, in which case the SDR must publicly disseminate the STAPD pursuant to § 43.5.

Third, the Commission is proposing to relocate § 43.3(c)(1) to § 43.3(b)(2) in conjunction with the above relocation of § 43.3(b)(2) to § 43.3(b)(1). As background, current § 43.3(c)(1) states that any SDR that accepts and publicly disseminates STAPD in real-time shall comply with part 49 and shall publicly disseminate STAPD in accordance with part 43 ASATP upon receipt of such data, except as otherwise provided in part 43.

The Commission is proposing to locate the regulations for SDRs to follow in disseminating STAPD in § 43.3(b). Because current § 43.3(c)(1) is an SDR obligation regarding the public dissemination of STAPD, the Commission believes it should be located in revised § 43.3(b). The Commission is also proposing to remove the last phrase of § 43.3(c)(1), which states that SDRs must publicly disseminate STAPD in accordance with part 43 ASATP upon receipt of such data, except as otherwise provided in part 43. The Commission believes this language unnecessary given the similar, but more precise, reference to § 43.5 in current § 43.3(b)(2) and in proposed § 43.3(b)(1), discussed above in this section II.C.6.[91] Therefore, proposed § 43.3(b)(2) would state that any SDR that accepts and publicly disseminates STAPD in real-time shall comply with part 49.

The Commission is proposing to redesignate current §§ 43.3(c)(2) and (3) as §§ 43.3(b)(4) and (5), respectively.

7. § 43.3(c)—Availability of Swap Transaction and Pricing Data to the Public

The Commission is proposing to relocate the requirements to make STAPD available to the public from § 43.3(d)(2) to §§ 43.3(c)(1) and (2).[92] As background, current § 43.3(d)(2) specifies that SDRs must make ''publicly disseminated'' STAPD ''freely available and readily accessible'' to the public. Currently, publicly disseminated is defined to mean to publish and make available STAPD in a non-discriminatory manner, through the internet or other electronic data feed that is widely published and in machine readable electronic format.

The requirement in § 43.3(d)(2) supports the fairness and efficiency of markets and increases transparency, which in turn improves price discovery and decreases risk (*e.g.,* liquidity risk).[93] Most SDRs currently make historical STAPD spanning multiple years available on their websites for market participants to download, save, and analyze.[94] However, without clear requirements on how long SDRs must make this data available, or to make instructions available, a situation could arise where STAPD is reported, publicly disseminated, and then quickly or unreasonably made unavailable to the public. Removing STAPD in this fashion would deny the public a sufficient opportunity to review such data and ultimately impede the goals of increasing market transparency, improving price discovery, and mitigating risk.

Therefore, the Commission is proposing to move the requirement in current § 43.3(d)(2) to new §§ 43.3(c)(1) and (2), along with revising the definition of ''publicly disseminate'' in § 43.2,[95] to establish requirements for SDRs to make STAPD available to the public on their websites. First, the Commission is proposing to specify that SDRs must make STAPD available on their websites for a period of a least one year after the initial ''public dissemination'' of such data. Second, the Commission is proposing to move the format requirements for SDRs in making this STAPD available to the revised definition of ''public dissemination.''[96]

Therefore, proposed § 43.3(c) would state that SDRs shall make: STAPD available on their websites for a period of time that is at least one year after the initial public dissemination thereof; instructions freely available on their websites on how to download, save, and search such STAPD; and STAPD that is publicly disseminated pursuant to part 43 available free of charge.

8. § 43.3(d)—Data Reported to SDRs

a. § 43.3(d)(1)—Standards for Reporting STAPD to SDRs

As discussed above in section II.B.2., the Commission is proposing to relocate the current requirement for SDRs to use a specific format in making STAPD available to the public from § 43.3(d)(1) to the definition of ''public dissemination and publicly disseminate'' in § 43.2.

Currently, § 45.13(b) requires reporting entities or counterparties to use the facilities, methods, or data standards provided or required by the SDR to which the entity or counterparty reports the data. An SDR may permit reporting entities and counterparties to use various facilities, methods, or data standards, provided that its requirements in this regard enable it to

[90] Moving current § 43.3(b)(1) to § 43.3(a)(2) would consolidate the requirements for SEFs and DCMs to report STAPD in § 43.3(a)(2).

[91] The reference in § 43.3(c)(1) to ''except as otherwise provided in part 43'' rather than solely to § 43.5 is unnecessarily broad, given that § 43.5 currently is the only regulation in part 43 containing a delay to public dissemination.

[92] As discussed above in section II.C.6., the Commission is proposing to relocate the text of current § 43.3(c)(1), as the Commission proposes to modify it, to § 43.3(b)(2), and current §§ 43.3(c)(2) and (3) as §§ 43.3(b)(4) and (5), respectively.

[93] *See* Real-Time Public Reporting of Swap Transaction Data, 77 FR 1182, 1183.

[94] DTCC–SDR's historical STAPD is available at *https://rtdata.dtcc.com/gtr/;* CME SDR's historical STAPD is available at *https://www.cmegroup.com/market-data/repository/data.html;* and ICE Trade Vault's historical STAPD is available at *https://www.icetradevault.com/tvus-ticker/#.*

[95] The revisions to the definition of ''publicly disseminate'' are discussed above in section II.B.2.

[96] *Id.*

report the data to the Commission in a format acceptable to the Commission, and transmit all swap data requested by the Commission to the Commission in an electronic file in a format acceptable to the Commission pursuant to § 45.13(a).

As explained in section III. below, the Commission had intended that part 43 data would be a subset of part 45 data reported to SDRs. As a result, § 45.13(b) indirectly required reporting entities or counterparties to use the data standards of their SDRs, as long as the standards enabled the SDR to report the data to the Commission in the format acceptable to the Commission. The Commission believes reporting counterparties would benefit from having a distinct regulatory requirement in part 43 for real-time public reporting. Therefore, the Commission is proposing § 43.3(d)(1), which would require reporting counterparties, SEFs, and DCMs to report the STAPD elements in appendix C in the form and manner provided in the technical specifications published by the Commission. The Commission is proposing a parallel requirement in § 45.13(a) in a separate part 45 NPRM.

b. § 43.3(d)(2)—Data Validations

As discussed above in section II.C.7., the Commission is proposing to relocate the current requirement for SDRs to make STAPD available to the public from § 43.3(d)(2) to §§ 43.3(c)(1) and (2).

Proposed § 43.3(d)(2) would require reporting counterparties, SEFs, and DCMs to satisfy SDR validation procedures when reporting STAPD to SDRs. Currently, the Commission's regulations do not require that SDRs validate STAPD. In a related NPRM, the Commission is proposing to require that SDRs implement validations, including on STAPD reported to SDRs.[97] As explained below in section II.C.9., the Commission is proposing to add related regulations for SDRs for STAPD validations in § 43.3(f). In general, § 43.3(f) would require SDRs to notify SEFs, DCMs, and reporting counterparties if the reported STAPD satisfied the SDR's validation procedures. The rule would further specify that SEFs, DCMs, and reporting counterparties have not fulfilled their reporting obligations until the STAPD passes an SDR's validation procedures.

The Commission believes that the SDR validation procedures in proposed § 43.3(f) would help improve the timeliness and accuracy of STAPD SDRs disseminate to the public. However, the Commission also believes that a companion requirement for reporting counterparties, SEFs, and DCMs to satisfy SDR validation procedures is necessary. Without such a requirement, the Commission is concerned about ambiguity as to the responsibilities of reporting counterparties, SEFs, and DCMs to respond to and satisfy the validation requirements specified in proposed § 43.3(f).

c. § 43.3(d)(3)—SDR Facilities, Methods, and Data Standards

The Commission is proposing to delete current § 43.3(d)(3). Currently, § 43.3(d)(3) requires SDRs to provide to the Commission a hyperlink to the internet website where publicly disseminated STAPD can be accessed by the public. This requirement is unnecessary, as SDRs have this information on their websites in a manner that is simple for the Commission and market participants to locate.

Proposed § 43.3(d)(3) would require reporting counterparties, SEFs, and DCMs to use the facilities, methods, or data standards provided or required by the SDR to which the reporting counterparty, SEF, or DCM, reports the data. The Commission understands that reporting counterparties, SEFs, and DCMs are currently using the facilities, methods, or data standards provided or required by the SDRs to which they are reporting data. Otherwise, reporting counterparties, SEFs, and DCMs would be unable to send STAPD to SDRs. However, as discussed throughout this section II.C.8., specifying this requirement for market participants would provide regulatory certainty.

9. § 43.3(f)—Data Validation Acceptance Message

The Commission is proposing new regulations for SDRs in validating STAPD in § 43.3(f). The Commission's regulations do not currently require that SDRs validate STAPD. The Commission understands, however, that SDRs have implemented validations as a best practice. As a result, each SDR runs a number of checks, or validations, on each STAPD message prior to publicly disseminating it. A failed validation can cause an SDR to reject the message without disseminating it to the public.

The Commission is concerned that the lack of validation requirements has resulted in reporting counterparties, SEFs, and DCMs being unaware of, or unfamiliar with, the existence of such validations. The Commission is concerned that the lack of awareness may be resulting in reporting counterparties, SEFs, and DCMs being unclear about their responsibilities to monitor their submissions to SDRs for errors that may result in validation failures that ultimately result in non-dissemination. As a result, the Commission is proposing in § 43.3(d)(2) to require reporting counterparties, SEFs, and DCMs to satisfy SDR validation procedures when reporting STAPD to SDRs. The Commission is also proposing § 43.3(f) to make clear the requirement for each SDR to notify submitting parties of their failure to meet the SDR's validation procedures and that an entity's reporting obligation is not satisfied until the SDR's validation procedures have been satisfied.

Therefore, proposed § 43.3(f)(1) would require that for an SDR to validate each STAPD report submitted it, the SDR shall notify the reporting counterparty, SEF, or DCM submitting the report whether the report satisfied the data validation procedures of the SDR. The SDR would have to provide such notice ASATP after accepting the STAPD report. Proposed § 43.3(f)(1) would provide that an SDR may satisfy the validation requirements by transmitting data validation acceptance messages as required by proposed § 49.10.[98]

Proposed § 43.3(f)(2) would provide that if a STAPD report submitted to an SDR does not satisfy the data validation procedures of the SDR, the reporting counterparty, SEF, or DCM required to submit the report has not satisfied its obligation to report STAPD in the manner provided by § 43.3(d). The reporting counterparty, SEF, or DCM would not have satisfied its obligation until it submits the STAPD report in the manner provided by § 43.3(d), which includes the requirement to satisfy the data validation procedures of the SDR.

10. § 43.3(h)—Timestamp Requirements

The Commission is proposing to delete the current timestamp requirements in § 43.3(h).[99] Regulation 43.3(h) sets forth timestamp requirements for registered entities, SDs, and MSPs with respect to STAPD for all PRSTs.[100] Pursuant to § 43.3(h)(1), SEFs

[97] 2019 Part 49 NPRM.

[98] The Commission is proposing new regulations for SDRs to validate STAPD in a separate Roadmap proposal amending parts 45, 46, and 49.

[99] The Commission notes that it has proposed to remove and reserve current § 43.3(g), and move the substance of the current requirements in § 43.3(g) regarding SDR hours of operation to § 49.28. *See* 2019 Part 49 NPRM at 20164. In this release, the Commission is proposing to relocate current § 43.3(i) to § 43.3(g), in conjunction with the proposed removal of current § 43.3(h) discussed above, as well as make conforming changes to the wording.

[100] In addition to allowing the Commission to monitor compliance with the timing requirements, timestamps also confirm for market participants that publicly reported STAPD is in fact being

and DCMs must timestamp STAPD relating to a PRST with the date and time, to the nearest second, of when such SEF or DCM receives data from a swap counterparty (if applicable), and transmits such data to an SDR for public dissemination. Pursuant to § 43.3(h)(2), SDRs must timestamp STAPD relating to a PRST with the date and time, to the nearest second when such SDR receives data from a SEF, DCM, or reporting party, and publicly disseminates such data. Pursuant to § 43.3(h)(3), SDs or MSPs must timestamp STAPD for off-facility swaps with the date and time, to the nearest second when such SD or MSP transmits such data to an SDR for public dissemination. Regulation 43.3(h)(4) requires that records of all timestamps required by § 43.3(h) must be maintained for a period of at least five years from the execution of the PRST.

As discussed in section III. below, the Commission is proposing an updated list of STAPD elements in appendix C where the timestamps described in § 43.3(h) would be covered. Therefore, the Commission proposes to remove the requirements in §§ 43.3(h)(1)–(3) for SEFs, DCMs, SDs, MSPs, and SDRs to timestamp STAPD.

In addition, the Commission believes that the separate recordkeeping requirement for timestamps is duplicative of other recordkeeping requirements for SEFs, DCMs, SDs, MSPs, and SDRs. For instance, SDRs must already keep swap data for five years following the final termination of the swap and for an additional ten years in archival storage.[101] In the 2019 Part 49 NPRM, the Commission is proposing to more clearly include part 43 STAPD in the recordkeeping requirement in § 49.12(b)(1).[102] SEFs, DCMs, SDs, and MSPs have similar recordkeeping requirements for swaps.[103] As a result, when timestamps are reported or disseminated, SEFs, DCMs, SDs, MSPs, and SDRs subject to Commission jurisdiction have to maintain them as part of recordkeeping requirements separate from § 43.3(h)(4). Therefore, the Commission is also proposing to remove the requirement in § 43.3(h)(4) for these entities to keep records of the timestamps for at least five years from execution.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 43.3. In addition, the Commission requests specific comment on the following:

(2) Instead of permitting a delay for PPS, should reporting counterparties be required to submit PPSs ASATP after execution using the Post-priced swap indicator (59), leaving the price empty and then be required to update that entry after the price is determined?

(3) Should the Commission permit an indefinite delay for reporting STAPD for PPSs? In other words, should reporting such data be required only once the price and/or other Variable Terms is/are known regardless of how long that takes? The Commission notes that such swaps could be flagged on the public tape as PPSs once reported. Alternatively, should the Commission set a shorter deadline for reporting STAPD for PPS?

(4) Should the Commission exclude from the PPS definition and/or from the reporting delay in proposed § 43.3(a)(4) swaps for which a price is not known at execution because it is contingent upon the outcome of SD hedging? Would permitting such swaps to receive the reporting delay in proposed § 43.3(a)(4) cause market participants to intentionally delay reporting in reliance on the need to hedge a swap where such market participants do not delay their reporting under current Commission reporting regulations?

(5) Should market participants be required to rely on the Commission's block trade reporting delays and capping and rounding rules, rather than proposed § 43.3(a)(4), to avoid the front-running concerns discussed above in section II.C.2.? Conversely, are the CEA's provisions and the Commission's regulations sufficient to deter market participants from intentionally altering their behavior to delay their reporting of swaps for which a price is not known at execution because it is contingent upon the outcome of SD hedging?

(6) Should the Commission modify its PPS indicator in appendix C, or add another indicator, to require market participants to indicate whether a swap is a PPS because it is contingent upon the outcome of SD hedging?

(7) Should the Commission modify its PPS indicator, or add another indicator, to require market participants to indicate whether a swap is a PPS based on other common reasons, such as the price being determined based on the volume-weighted average price (also known as ''VWAP'') of an index level at market close?

(8) The Commission understands that trade at settlement (''TAS'') futures orders [104] are displayed to the market when entered, in contrast to PPS executions under proposed § 43.3(a)(4). Do the similarities between PPSs and TAS futures orders warrant reporting PPSs when executed, rather than by the deadline specified in proposed § 43.3(a)(4)? Conversely, do PPSs' relative illiquidity vis-a-vis TAS futures orders warrant the reporting delay in proposed § 43.3(a)(4)? [105]

(9) Did the Commission accurately describe the prime brokerage swap transaction structures discussed above? Should the real-time public tape reflect the number of mirror swaps related to a given trigger swap to provide information to the public on the number of prime brokerage swap transaction structures with multiple mirror swaps? Would such an indicator provide useful information to market participants?

(10) Should the Commission scale back the scope of the exclusion of mirror swaps from the PRST definition in proposed § 43.3(a)(6)(i) such that each of the following swaps would be PRSTs: (a) Swaps executed as part of partial reverse give-up arrangements and/or (b) swaps executed as part of other prime brokerage transaction structures in which the notional amount of a mirror swap may differ from the notional amount of the corresponding trigger swap? Should the Commission scale back the scope of the exclusion of mirror swaps from the PRST definition in proposed § 43.3(a)(6)(i) such that the exclusion would be limited to ''plain vanilla'' mirror swaps?

reported ASATP after transactions have been executed.

[101] *See* §§ 45.2(f) and (g) (containing recordkeeping requirements for SDRs); *see also* § 49.12(a) (referencing part 45 recordkeeping requirements). In the 2019 Part 49 NPRM, the Commission is proposing to move the requirements in §§ 45.2(f) and (g) to § 49.12. *See* Certain Swap Data Repository and Data Reporting Requirements, 84 FR 21044, 21103–04.

[102] The Commission is doing so by replacing the term ''swap data'' with ''SDR data,'' which the Commission proposes to define as data required to be reported pursuant to two or more of parts 43, 45, 46, or 49 of the Commission's regulations. *See* Certain Swap Data Repository and Data Reporting Requirements, 84 FR 21044, 21103–04.

[103] 17 CFR 45.2(c) requires SDs, MSPs, SEFs, and DCMs subject to Commission jurisdiction to maintain records for each swap throughout the life of the swap for a period of at least five years following the final termination of the swap.

[104] *See, e.g., Trading at Settlement (TAS),* CME Group Inc., *available at https://www.cmegroup.com/trading/trading-at-settlement.html* (explaining that ''Trading at Settlement (TAS) order types . . . allow you to buy or sell a contract at the settlement price'').

[105] *See* Paul Peterson, Trading at Settlement for Agricultural Futures: Results from the First Month, farmdocdaily, *available at https://farmdocdaily.illinois.edu/2015/07/trading-at-settlement-for-agricultural-futures.html* (Jul. 29, 2015) (noting that ''[t]o prevent [''banging the close'' and other forms of manipulation] . . . from happening in the ag markets, TAS is available only in the most liquid commodities, and only in the most liquid contract months'' and ''[s]ome energy market participants claim that . . . price discovery is reduced because TAS trades are simply assigned a price without having to compete (like a limit or 'price' order would) for a price in the open market'').

(11) If a SD executed one or more swaps to hedge a swap that the SD had executed with a counterparty, and the hedging swap(s) was/were executed at the same price as the swap being hedged, the hedging swap(s) generally would be a PRST or PRSTs and, thus, subject to part 43 reporting.[106] Given the similarity of such transaction structures to trigger swap-mirror swap transactions structures, is it appropriate to treat mirror swaps as non-PRSTs pursuant to proposed § 43.3(a)(6)?

(12) Should the Commission modify proposed § 43.2(a) to include a carve out for prime brokerage service fees to reflect that such fees might not be included in all such mirror swaps?

(13) Is the proposed definition of ''prime broker'' sufficient and clear enough to accurately describe the term as understood in common industry practice? Is it sufficiently narrow to limit the non-reporting of mirror swaps to transactions involving ''prime brokers,'' as that term is understood in the market? If the Commission should propose a different definition of ''prime broker,'' what should that definition be?

(14) In order to ensure data quality, should the Commission mandate a certain standard for reporting to the SDRs? If so, what standard should the Commission mandate and what would be the benefits of mandating this standard? If not, why should the Commission not mandate a standard?

D. § 43.4—Swap Transaction and Pricing Data To Be Publicly Disseminated in Real-Time

1. § 43.4(a)–(e)—Public Dissemination, Additional Swap Information, Anonymity, and Unique Product Identifiers

The Commission proposes to make several primarily non-substantive changes to current §§ 43.4(a)–(e), (g) and (h). As background, § 43.4(a) generally requires that STAPD must be reported to an SDR so that the SDR can publicly disseminate it in real-time, including according to the manner described in § 43.4 and appendix A. The Commission proposes to delete current § 43.4(a). The Commission believes that current § 43.4(a) is overly general. As a result of removing current § 43.4(a), the Commission proposes to re-designate §§ 43.4(b)–(d) as §§ 43.4(a)–(c).

Current § 43.4(b) requires that any SDR that accepts and publicly disseminates STAPD in real-time shall publicly disseminate the information described in appendix A, as applicable, for any PRST. The Commission proposes to re-designate § 43.4(b) as § 43.4(a), and make conforming changes. As proposed, § 43.4(a) would require that any SDR that accepts and publicly disseminates STAPD in real-time shall publicly disseminate the information for the STAPD elements in appendix C to part 43 in the form and manner provided in the technical specifications published by the Commission.

Current § 43.4(c) states that SDRs that accept and publicly disseminate STAPD in real-time may require reporting parties, SEFs, and DCMs to report to the SDR information necessary to compare the STAPD that was publicly disseminated in real-time to the data reported to an SDR pursuant to section 2(a)(13)(G) of the CEA or to confirm that parties to a swap have reported in a timely manner pursuant to § 43.3. The Commission proposes to re-designate § 43.4(c) as § 43.4(b) and make minor non-substantive changes.

Current § 43.4(d) contains regulations for maintaining the anonymity of the parties to a PRST. The Commission is proposing to re-designate § 43.4(d) as § 43.4(c) and make minor non-substantive changes. Among these changes, the Commission is proposing to remove current § 43.4(d)(4)(i)–(iii); re-designate § 43.4(d)(4) as § 43.4(c)(4); and consolidate the substance of §§ 43.4(d)(4)(i) and (iii) in proposed § 43.4(c)(4). These actions would remove the requirement in current § 43.4(d)(4)(ii) that registered SDRs publicly disseminate the actual assets underlying other commodity swaps that either reference one of the contracts described in appendix B to part 43 [107] or that are economically related to such contracts.[108]

Currently, depending on the assets underlying other commodity swaps, such assets are either disseminated as reported or are disseminated as described in § 43.4(d)(4)(iii). Current § 43.4(d)(4)(iii) states that the underlying assets of swaps in the ''other commodity'' asset class that are not described in § 43.4(d)(4)(ii) shall be publicly disseminated by limiting the detail of the underlying assets. Current § 43.4(d)(4)(iii) also states that the identification of any specific delivery point or pricing point associated with the underlying asset of such ''other commodity'' swap shall be publicly disseminated pursuant to appendix E to part 43.

As proposed to be amended, § 43.4(c)(4) would provide the same geographic masking treatment for all assets underlying ''other commodity'' swaps, namely the geographic masking described in current § 43.4(d)(4)(iii). The Commission believed when adopting part 43 that other commodity swaps referencing or economically related to one of the contracts described in appendix B to part 43 were sufficiently liquid that publicly disseminating such information would not identify the swap counterparties [109] or materially reduce swap market liquidity.[110] However, the Commission preliminarily believes that other commodity swaps referencing, or economically related to, the contracts in appendix B may still be sufficiently bespoke to warrant additional masking. Consequently, the Commission proposes to remove the requirement in current § 43.4(d)(4)(ii) that registered SDRs publicly disseminate the actual assets underlying other commodity swaps that either reference one of the contracts described in appendix B to part 43 or that are economically related to such contracts. Because the Commission proposes to remove that requirement from current § 43.4(d)(4)(ii), the Commission also proposes to remove appendix B to part 43 from its regulations. The Commission also proposes to redesignate current appendix E as appendix B.

Finally, current § 43.4(e) permits SDRs to disseminate UPIs for certain data fields once a UPI is available. The Commission proposes to delete current § 43.4(e), which gives SDRs discretion regarding what fields to publicly disseminate after a UPI exists.[111] As discussed below in section III., the UPI will be addressed in the STAPD elements in appendix C.

2. § 43.4(f)–(g)—Process To Determine Appropriate Rounded Notional or Principal Amounts

Current § 43.4(f) requires that reporting parties, SEFs, and DCMs report the actual notional or principal amount of any swap, including block

[106] *But see* paragraph (2) of the ''Publicly reportable swap transaction'' definition in § 43.2, which states that examples of executed swaps that do not fall within the definition of publicly reportable swap transaction may include internal swaps between one-hundred percent owned subsidiaries of the same parent entity.

[107] *See* current § 43.3(d)(4)(ii)(A).

[108] *See* current § 43.3(d)(4)(ii)(B).

[109] *See* Real-Time Public Reporting of Swap Transaction Data, 77 FR 1182, 1211. CEA section 2(a)(13)(E)(i) requires the Commission to ensure that information disseminated pursuant to its real-time reporting rules does not identify swap ''participants.'' 7 U.S.C. 2(a)(13)(E)(i).

[110] CEA section 2(a)(13)(E)(iv) requires the Commission to take into account whether public disclosure pursuant to its real-time reporting rules will materially reduce market liquidity. 7 U.S.C. 2(a)(13)(E)(iv).

[111] The Commission has not yet designated a UPI and product classification system to be used in recordkeeping and swap data reporting pursuant to § 45.7.

trades, to an SDR that accepts and publicly disseminates such data pursuant to part 43.[112]

As discussed above, the Commission is proposing to remove §§ 43.4(a) and (e), and re-designate § 43.4(b)–(d) as § 43.4(a)–(c). As a result of these changes, the Commission proposes to re-designate § 43.4(f) as § 43.4(d) and make minor non-substantive changes.

3. § 43.4(g)—Public Dissemination of Rounded Notional or Principal Amounts

As discussed above, the Commission is proposing to redesignate current § 43.4(f) as § 43.4(d). As a result of these changes, the Commission is proposing to re-designate current § 43.4(g) as § 43.4(e) and make minor non-substantive edits.

One of these non-substantive edits is a structural change in the regulations. Current § 43.4(g), titled ''Public dissemination of rounded notional or principal amounts,'' states that the notional or principal amount of a PRST, as described in appendix A to this part, shall be rounded and publicly disseminated by a registered SDR, and then sets out the rules for rounding.

The Commission is proposing to rephrase § 43.4(g), which would be re-designated as § 43.4(e), to state that the notional or principal amount of a PRST shall be publicly disseminated by an SDR subject to rounding as set forth in § 43.4(f) and a cap size as set forth in § 43.4(g).

Then, the rounding rules in current § 43.4(g) would be in a new section § 43.4(f) titled ''Process to determine appropriate rounded notional or principal amounts.'' Section § 43.4(f) would then contain the rounding rules for SDRs, subject to two substantive changes explained below, among other non-substantive changes.

The Commission proposes amending §§ 43.4(g)(8) and (9), which would be re-designated as §§ 43.4(f)(8) and (9). Current § 43.4(g)(8) requires a registered SDR to round the notional or principal amount of a PRST to the nearest one billion if it is less than 100 billion but equal to or greater than one billion. The Commission proposes to amend proposed § 43.4(f)(8) to require rounding to the nearest 100 million instead of one billion. Current § 43.4(g)(9) requires a registered SDR to round the notional or principal amount of a PRST to the nearest 50 billion if it is greater than 100 billion. The Commission proposes to amend § 43.4(f)(9) to require rounding to the nearest 10 billion and to add the words ''equal to or'' before ''greater than 100 billion'' to include swaps with notional or principal amounts that are exactly 100 billion, the omission of which from the 2012 RTR Final Rule appears to have been an oversight.[113]

The Commission is concerned that broadly rounded notional or principal amounts could undermine the price discovery purpose of real time reporting.[114] The Commission is particularly concerned about swaps with notional or principal amounts over 1 billion, because there tend to be fewer swaps of such size relative to swaps with smaller notional or principal amounts. The Commission preliminarily believes that smaller rounding increments for the notional or principal amount of swaps covered by proposed §§ 43.4(f)(8) and (9) would improve price discovery for such swaps. Rounding the notional or principal amounts in smaller increments in proposed §§ 43.4(f)(8) and (9) also would be consistent with the rounding increments prescribed in § 43.4(g)(1)–(7) (*i.e.,* proposed § 43.4(f)(1)–(7)) on a percentage basis. The Commission preliminarily believes that the rounding increments in proposed §§ 43.4(f)(8) and (9) are sufficiently wide to protect the anonymity of swap counterparties, but invites comment on this issue. Additionally, the Commission intends to continue to limit geographic detail about delivery and pricing points and to provide notional or principal cap sizes, each of which further protects swap counterparties' anonymity.[115]

4. § 43.4(h)—Process To Determine Cap Sizes

As a result of the above proposal to re-designate current § 43.4(g) as § 43.4(e) and create a separate section for rounding in § 43.4(f), the Commission is proposing to re-designate current § 43.4(h) as § 43.4(g). Current § 43.4(h) contains, and proposed § 43.4(g) would contain, the cap size rules for SDRs.

As background, the initial cap sizes were to be equal to the greater of the initial AMBS for the respective swap category in appendix F or the respective cap sizes in § 43.4(h)(1)(i)–(v).[116] The Commission was to establish post-initial cap sizes, according to the process in § 43.6(f)(1), using reliable data collected by SDRs based on a one-year window of STAPD corresponding to each relevant swap category, recalculated no less than once each calendar year and using the 75-percent notional amount calculation described in § 43.6(c)(3) applied to the STAPD.[117] The Commission was to publish post-initial cap sizes on its website at *https://www.cftc.gov,*[118] and the caps were to be effective on the first day of the second month following the date of publication.[119]

Since the Commission has not yet moved to the post-initial period, the Commission now proposes to move to the post-initial cap sizes based on the 75% notional calculation, as the Commission directed itself to do in current § 43.4(h)(2). In addition, the Commission is proposing several amendments to the substance of the cap size regulations that the Commission will discuss in this section.

Structurally, the Commission proposes to remove the ''initial cap sizes'' and relabel the ''post-initial cap sizes'' as the ''cap sizes.'' Because the initial cap sizes will be superseded by the post-initial cap sizes once adopted, there is no longer any need to distinguish between initial cap sizes and post-initial cap sizes. Specifically, the Commission proposes to remove the initial cap sizes in § 43.4(h)(1) and establish cap sizes, which would not be referred to as post-initial cap sizes, in proposed § 43.4(g) that align with the

[112] 17 CFR 43.4(f)(1)–(2).

[113] The omission of swaps with notional or principal amounts of exactly 100 billion did not change the rounding result. Although such swaps are not presently subject to rounding due to their omission from § 43.4(g)(9), even if they were included therein, because their notional or principal amount is a round number already, they would not have been rounded, and would not be rounded as a result of proposed § 43.4(f)(9). However, because all swaps with notional or principal amounts of greater than 100 billion will be rounded to the nearest 10 billion if § 43.4(f)(9) is adopted as proposed, such swaps would still obtain the anonymizing benefits of §§ 43.4(f)(8) and (9) when 100 billion is the nearest number to round to pursuant to §§ 43.4(f)(8) or (9), as applicable.

[114] *See* CEA section 2(a)(13), 7 U.S.C. 2(a)(13) (stating that the purpose of this section is to authorize the Commission to make swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery).

[115] *See* proposed §§ 43.4(c)(4) (limiting geographic detail) and 43.4(g) (notional or principal cap sizes).

[116] 17 CFR 43.4(h)(1). If appendix F did not provide an initial AMBS for a particular swap category, the initial cap size for such swap category would be equal to the appropriate cap size as set forth in § 43.4(h)(1)(i)–(v). As discussed in section II.F.3., the Commission is proposing to remove appendix F and publish the AMBSs and cap sizes on the Commission's website, *https://www.cftc.gov.* Current § 43.4(h)(1) also requires SDRs, when publicly disseminating the notional or principal amounts for each such category, to disseminate the cap size specified for a particular category rather than the actual notional or principal amount in those cases where the actual notional or principal amount of a swap is above the cap size for its category. Current § 43.4(h) does not explicitly state that an SDR must publicly disseminate swap data subject to the cap size limit, but the Commission clarified this requirement in the preamble to the 2012 RTR Final Rule. *See* Real-Time Public Reporting of Swap Transaction Data, 77 FR 1182, 1214.

[117] 17 CFR 43.4(h)(2).

[118] 17 CFR 43.4(h)(3).

[119] 17 CFRC 43.4(h)(4).

methodology for setting block sizes in proposed § 43.6(e).

The initial cap sizes for the asset classes other than equities are currently equal to the greater of the initial AMBS set forth in appendix F to part 43 or the applicable cap size set forth in §§ 43.4(h)(1)(i)–(v). Appendix F sets forth initial AMBS by asset class and, within asset class, by various other categories. Current §§ 43.4(h)(1)(i)–(v) contain cap sizes for swaps, categorized by asset class,[120] expressed in notional or principal amounts.

The proposed cap sizes would be based on a 75-percent notional amount calculation for a select set of swap categories in the interest rate, credit, foreign exchange (''FX'') (consisting of U.S. currency and specified non-U.S. currency pairs), and other commodity asset classes,[121] as the Commission had intended when finalizing the Block Trade Rule. The Commission proposes to establish the cap sizes for these swap categories set forth in proposed §§ 43.6(b)(1)(i) (interest rate), (b)(2)(i)–(vii) (credit), (b)(4)(i) (FX), and (b)(5)(i) (other commodity), using the same methodology that the Commission proposes to use to establish AMBSs for those categories, but using a 75% notional amount calculation for the cap sizes rather than the 67% notional amount calculation that the Commission proposes to use to establish AMBSs.[122]

Additionally, the proposed cap sizes for those swap categories containing swaps with limited trading activity in the interest rate, credit, equity, FX, and other commodity asset classes would be set at USD 100 million, USD 400 million, USD 250 million, USD 150 million, and USD 100 million, respectively, in § 43.4(g)(4)–(8).[123]

Furthermore, as discussed below in II.F.2., the Commission also proposes to revise the current 75-percent notional amount calculation currently used for setting post-initial cap sizes and, as discussed below in II.F.1, to revise the swap categories used to calculate cap sizes.

The Commission preliminarily believes that requiring itself to recalculate the cap size no less than once each calendar year, as required by current § 43.4(h)(2)(i), could lead to frequent updates to systems for SDRs without a clear benefit to the real-time public tape. Instead, the Commission is proposing a flexible approach to determine if recalculating those cap sizes, based on the 75-percent notional amount calculation, is merited. The Commission expects to evaluate the swap markets and trading in the proposed swap categories on an ongoing basis. The Commission believes this approach would strike the right balance between updating the cap sizes when doing so would benefit the public tape and not wanting to require SDRs to make unnecessary system changes.

For those cap sizes for which the Commission has established fixed USD amounts, there is no calculation or calculation method to update. Instead, the Commission expects to propose new cap sizes for these swap categories in the future if the Commission believes it warranted.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 43.4. In addition, the Commission specifically requests comment on the following:

(15) Each of § 43.4(f)(1)–(9) directs an SDR to ''round'' to the nearest specified amount, rather than to round up or down to the nearest specified amount. Should the Commission specify in proposed §§ 43.4(f)(1)–(9) that an SDR must round up, or down, to the nearest specified amount and in which circumstances an SDR must round up or down to the nearest specified amount? If so, what rounding convention should the Commission specify?

(16) Should the Commission require the removal of any caps that were applied pursuant to § 43.4(h) after six months and thereby reveal the actual notional amount of any capped amounts once six months has passed? Would six months be long enough to mitigate any anonymity concerns?

E. § 43.5—Time Delays for Public Dissemination of Swap Transaction and Pricing Data

1. § 43.5(a)—General Rule

The Commission proposes several changes to § 43.5(a). Current § 43.5(a) states that the time delay for the real-time public reporting of a block trade or LNOF begins upon execution, as defined in § 43.2. Current § 43.5(a) goes on to state that it is the responsibility of the registered SDR that accepts and publicly disseminates STAPD in real-time to ensure that the block trade or LNOF STAPD is publicly disseminated pursuant to part 43 upon the expiration of the appropriate time delay described in §§ 43.5(d) through (h).

The Commission proposes to change the reference to ''public reporting'' of a block trade or LNOF to ''dissemination'' thereof to reflect that reporting counterparties report STAPD to an SDR pursuant to part 43 but SDRs ''disseminate'' it by making such STAPD public. The Commission also proposes to remove references to LNOF transactions in § 43.5(a), and throughout part 43, to reflect that the Commission is proposing to establish, in § 43.5(c), discussed below in section II.E.3., a single time delay for public dissemination of STAPD of a swap with a notional or principal amount at or above the AMBS. The other proposed changes to § 43.5(a) are ministerial, conform to the proposed removal of §§ 43.5(c)–(h), or are discussed elsewhere in this NPRM.

As revised, proposed § 43.5(a) would state that the time delay for the real-time public dissemination of a block trade begins upon execution, as defined in § 43.2(a). Proposed § 43.5(a) would go on to state that it is the responsibility of the SDR that accepts and publicly disseminates STAPD in real-time to ensure that the STAPD for block trades is publicly disseminated pursuant to part 43 upon the expiration of the appropriate time delay described in § 43.5(c).

2. § 43.5(b)—Public Dissemination of Publicly Reportable Swap Transactions Subject to a Time Delay

The Commission proposes to remove unnecessary text from § 43.5(b). Currently, § 43.5(b) uses a three-part description of the timing for a registered SDR to publicly disseminate STAPD that is subject to a time delay. Specifically, § 43.5(b) states that a registered SDR shall publicly disseminate STAPD that is subject to a time delay pursuant to this paragraph, as follows: (1) *No later than* the prescribed time delay period described in this paragraph; (2) *no sooner than* the prescribed time delay period described in this paragraph; and (3) *precisely upon* the expiration of the time delay period described in this paragraph.[124] The Commission proposes to remove the

[120] For swaps in the interest rate asset class, there are three separate cap sizes for different tenors.

[121] The Commission is not proposing to revise the current cap size for equities in § 43.4(h)(1)(iii). Instead, the Commission proposed to redesignate current § 43.4(h)(1)(iii) as § 43.4(g)(6) and leave the cap size for swaps in the equity category as USD 250 million.

[122] *See* section II.F.3. below for a discussion of the Commission's proposal to revise the process to determine AMBS. As mentioned above, using the 75% notional amount calculation would be consistent with what the Commission had intended when it adopted the Block Trade Rule. *See* 17 CFR 43.4(h)(2).

[123] Proposed § 43.4(g)(4)–(8) would reference the regulations containing the categories for swaps with limited trading activity: § 43.6(b)(1)(i) (interest rate); § 43.6(b)(2)(viii) (credit); § 43.6(b)(3) (equity); § 43.6(b)(4)(iii) (FX); § 43.6(b)(5)(ii) (other commodity). The Commission's process for determining these categories is discussed in section II.F.1. below.

[124] Emphasis added.

requirements of §§ 43.5(b)(1) and (2) that registered SDRs must disseminate the specified STAPD *no sooner than,* and *no later than* the prescribed time delay period and to retain the requirement of § 43.5(b)(3) that SDRs must disseminate the specified STAPD *precisely upon* the expiration of the time delay period. The *precisely upon* language implicitly includes prohibitions on both disseminating the STAPD sooner that the prescribed time delay period and disseminating it any later than such period, so these proposed changes are not substantive. The Commission also proposes to make ministerial rephrasing amendments to § 43.5(b).

As revised, proposed § 43.5(b) would state that an SDR shall publicly disseminate STAPD that is subject to a time delay precisely upon the expiration of the time delay period described in § 43.5(c).

3. § 43.5(c)–(h)—Removal of Certain Regulations Related to Time Delays

The Commission proposes to remove current §§ 43.5(c)–(h) and add a new § 43.5(c) that requires SDRs to implement a time delay of 48 hours for disseminating STAPD for each applicable swap transaction with a notional or principal amount above the corresponding AMBS, if the parties to the swap have elected block treatment. Because the time delays in proposed § 43.5(c) would replace the time delays in current appendix C, the Commission also proposes to remove appendix C.[125]

Current § 43.5(c) provides interim time delays for each PRST, not just block trades and LNOFs, until an AMBS is established for such PRST. The Commission adopted § 43.5(c) in case compliance with part 43 was required before the establishment of AMBSs.[126] Because the Commission has now established AMBSs by swap category,[127] current § 43.5(c) is no longer applicable. Therefore, the Commission proposes to remove current § 43.5(c).

Current §§ 43.5(d)–(h) phased in the various time delays for the dissemination of swap block trades and LNOFs over a one to two year period. The Commission believed when it adopted those regulations that ''providing longer time delays for public dissemination during the first year or years of real-time reporting [would] enable market participants to perfect and develop technology and to adjust hedging and trading strategies in connection with the introduction of post-trade transparency.'' [128] Now that the phasing in of the time delays in current §§ 43.5(d)–(h) is complete, the Commission is proposing to remove the text remaining from the phase-in concept.

Current §§ 43.5(d)–(h) provide specific time delays for the public dissemination of STAPD by an SDR.[129] As background, CEA section 2(a)(13)(E)(iv) directs the Commission to take into account whether public disclosure of STAPD ''will materially reduce market liquidity.'' When the Commission adopted the Block Trade Rule in 2013, the Commission understood that the publication of detailed information regarding ''outsize swap transactions'' (*i.e.,* block trades and LNOFs) could expose swap counterparties to higher trading costs.[130] In this regard, the publication of detailed information about an outsize swap transaction could alert the market to the possibility that the original liquidity provider to the outsize swap transaction will be re-entering the market to offset that transaction. Other market participants, alerted to the liquidity provider's large unhedged position, would have a strong incentive to exact a premium from the liquidity provider when the liquidity provider seeks to enter into offsetting trades to hedge this risk. As a result, liquidity providers may be deterred from becoming counterparties to outsize swap transactions if STAPD is publicly disseminated before liquidity providers can adequately offset their positions.

If a liquidity provider agrees to execute an outsize swap transaction, it likely will charge the counterparty the additional cost associated with hedging this transaction. In consideration of these potential outcomes, the Commission established the time delays for block trades and LNOFs to balance public transparency and the concerns that post-trade reporting would reduce market liquidity.[131] The Commission noted when proposing the time delays for block trades and LNOFs that it would continue to analyze and study the effects of increased transparency on post-trade liquidity in the context of block trades and LNOFs.[132]

When the Commission adopted the block delays in 2012, it noted that commenters to the proposal recommended a range of time delays for public dissemination of block trades and LNOFs, including end-of-day, 24 hours, T+1, T+2, a minimum of four hours, and 180 days.[133] In the Roadmap, DMO stated an intention to evaluate real-time reporting regulations in light of goals of liquidity, transparency, and price discovery in the swaps market.[134] In response, the Commission received additional comments on the block delays.

One commenter generally supported DMO's efforts to review public dissemination requirements in light of product liquidity, and asserted that DMO should consider whether there should be increased time delays for public reporting of block trades.[135] Another commenter requested that as DMO considered whether to shorten reporting deadlines and, relatedly, public dissemination of the data, DMO evaluate the impacts, if any, on market liquidity and counterparty confidentiality.[136] This commenter went on to explain that any changes in the speed for public dissemination could potentially be counterproductive and harmful and could further the need to examine block trade thresholds to protect counterparties and markets.[137]

In response to a later-announced Commission review of its rules, a commenter expressed concern that, with respect to block trades, fifteen minutes is too short a window within which to execute large hedging programs, which typically take several days or even weeks to execute, and current block trade reporting delays do not give end-users sufficient flexibility for creating

[125] As discussed in section III, the Commission is proposing to replace appendix C with the list of STAPD elements that would be publicly disseminated by SDRs.

[126] *See* Real-Time Public Reporting of Swap Transaction Data, 77 FR 1182, 1217 (stating ''it is possible that compliance with part 43 may be required before the establishment of [AMBSs] for certain asset classes and/or groupings of swaps within an asset class'').

[127] *See* § 43.6 (setting forth the block sizes for various swap categories).

[128] Real-Time Public Reporting of Swap Transaction Data, 77 FR 1182, 1217.

[129] The time delays are discussed above in section I.B.

[130] *See* Block Trade Rule at 32871 n.44 (stating that an ''outsize swap transaction'' is a transaction that, as a function of its size and the depth of the liquidity of the relevant market (and equivalent markets), leaves one or both parties to such transaction unlikely to transact at a competitive price).

[131] *Cf.* Federal Reserve Bank of New York Staff Reports, An Analysis of OTC Interest Rate Derivatives Transactions: Implications for Public Reporting (Mar. 2012, revised Oct. 2012) at 3 (explaining that most post-trade reporting regimes allow for reduced reporting requirements for large transactions since immediate reporting of trade sizes has the potential to disrupt market functioning, deter market-making activity, and increase trading costs).

[132] *See* Real-Time Public Reporting of Swap Transaction Data, 75 FR 76140, 76159 n.67 (Dec. 7, 2010).

[133] *See* Real-Time Public Reporting of Swap Transaction Data, 77 FR 1182, 1216.

[134] Roadmap at 11.

[135] Joint ISDA–SIFMA Letter at 9.

[136] Letter from SIFMA–AMG at 3.

[137] *Id.*

efficient trade execution strategies without the risk of potentially revealing counterparty identities.[138] According to this commenter, anecdotal evidence suggests that data mining is pervasive, and that market participants have reported repeated instances in which markets have moved away from them shortly after beginning to execute large transactions as part of a hedging strategy.[139]

DMO and the Commission did receive comments supporting the current, shorter, block delay. One commenter stated that the ''delay periods governing block trades should be minimized to what is truly essential and the size thresholds should be similarly high to minimize opacity in the market.'' [140] Similarly, another commenter requested that given the existing 15 minute delay from real-time public reporting, the Commission should endeavor to update the block thresholds using recent market data to avoid risking that too many, or not enough, transactions are eligible for the delay from real-time public reporting requirements.[141]

In particular, the Commission is receptive to concerns that market participants may generally seek to hedge their portfolios before the close of business on the day a swap is executed, which would seem to support an either 24-hour or end-of-day reporting delay. The Commission understands that there are many variables that influence the time a market participant may take to put on a hedge, including risk tolerance to a price change, the risk of information leakage, the asset class involved and perceived demand for the hedge from other market participants, as well as consideration of the deadlines imposed by other authorities.[142] In light of these considerations, the Commission proposes to extend the delay to 48 hours for all block trades as a conservative measure to account for potential situations when a market participant requires additional time to place a hedge position without significant unfavorable price movement and to create some consistency with the disclosure requirements of other authorities for non-liquid swaps.

A 48 hour time delay would extend, in each case, the time delay applicable to block trades or LNOFs pursuant to current §§ 43.5(d)–(g).[143] The longest current time delay is the 24 business hour time delay in § 43.5(h)(3) for LNOFs that are not subject to mandatory clearing or are exempt from such mandatory clearing and in which neither counterparty is an SD or MSP. Due to weekends and holidays, that delay is often longer than 48 hours. Although the proposed 48 hour time delay may in some cases be shorter than the 24 business hour time delay,[144] as noted above, the Commission preliminarily believes that a 48 hour time delay is more appropriate and should be sufficient.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 43.5. In particular, the Commission requests comment on the following:

(17) The Commission understands that for many trades that meet the definition of a block trade, the hedging process is often completed as quickly as possible and typically by the end of the trading day in which the block trade is executed so that the liquidity provider can establish its profit or loss on the transaction. On the other hand, some block trades that are very large in size or have unique characteristics could take longer than a single trading period to hedge. To balance the competing interest of price discovery and allowing hedging to occur, should the Commission consider two delay periods? For example, would a 15 minute, one hour, end of day, or 24 hour time delay be appropriate for swaps that fall within a 67 percent to 90 or 95 percent of the total notional amount of transactions range, while block trades that exceed the higher level would have a 48 hour time delay? If so, what would be the appropriate ranges for the total notional amounts and time delay periods? The Commission invites comments on all aspects of the block delay, including how the Commission should analyze swaps in each asset class for the purpose of analyzing the block delay with respect to data sets and methodologies, among other factors.

F. § 43.6—Block Trades

1. § 43.6(b)—Swap Categories

In the Block Trade Rule, the Commission assigned swap contracts to ''swap categories'' for the purpose of applying a common AMBS to different swap transactions.[145] Section 43.6(a) states that the Commission shall establish the AMBS for PRSTs based on the swap categories set forth in § 43.6(b) in accordance with the provisions set forth in paragraphs (c), (d), (e), (f) or (h) of § 43.6, as applicable.[146]

To create the swap categories, the Commission divided swap contracts into five asset classes: Interest rates; equity; credit; FX; and other commodity. The Commission then subdivided these asset classes into the various swap categories in § 43.6(b). The swap category criteria used by the Commission were intended to address the following two policy objectives: (1) Categorizing together swaps with similar quantitative or qualitative characteristics that warrant being subject to the same AMBS; and (2) minimizing the number of swap categories within an asset class in order to avoid unnecessary complexity in the determination process.[147]

The Commission is concerned that some of the current swap categories include multiple swap transaction types that have different average notional amounts resulting in an AMBS for the swap category that has a disparate impact on swap transaction types that currently fall within the same swap category. For instance, current swap categories group together economically distinct swaps, such as interest rate swaps (''IRSs'') denominated in U.S. dollars (''USD IRSs'') and IRSs denominated in Japanese yen (''JPY

[138] Letter from the Financial Services Roundtable at 27.

[139] *Id.*

[140] Letter from Better Markets at 7.

[141] Letter from Citadel at 3.

[142] The Commission notes that that the European Union's regulatory technical standards on transparency requirements for trading venues and investment firms for non-equity financial instruments under MiFID II (commonly referred to as RTS 2) provides that large-in scale swap transactions are eligible for deferred publication for two working days. *See* Article 8 of (EU) 2017/583 supplementing Regulation (EU) No 600/2014 of the European Parliament and of the Council on markets in financial instruments with regard to regulatory technical standards on transparency requirements for trading venues and investment firms in respect of bonds, structured finance products, emission allowances and derivatives (July 14 2016).

[143] The Commission supports setting the same time delay for all outsize swap transactions. The Commission believes that setting dissimilar (*i.e.,* relatively shorter and longer) time delays for different swap transactions may inappropriately disadvantage hedging the risk of swaps in certain categories compared to hedging the risk of others, as discussed below in the context of § 43.5(h)(3).

[144] For example, during a typical five business day work week, a block trade executed midday Monday would have to be disseminated no later than midday Tuesday, whereas a 48 hour time delay would permit delaying the dissemination of such swap until midday Wednesday.

[145] As discussed above in section II.D.3., the process to determine cap sizes in proposed § 43.4(g) depends on the swap categories in proposed § 43.6(b) and the methodologies in proposed § 43.6(c).

[146] Regulation 43.6(c) sets forth the methodologies to determine AMBS and cap sizes. Regulation 43.6(d) specifies that there are no AMBSs for equity swaps. Regulation 43.6(e) sets forth the initial AMBSs, and § 43.6(f) sets forth the post-initial process to set AMBSs. Regulation 43.6(h) sets forth special provisions relating to AMBSs and cap sizes. The proposed changes to each of §§ 43.6(c), (e), and (f) will be discussed in II.F.2., 3., and 4., respectively. The Commission is not proposing to amend § 43.6(d).

[147] *See* Block Trade Rule at 32872.

IRSs''). Because the notional amounts of USD IRS transactions is, on average, higher than the notional amounts of JPY IRS transactions, the Commission preliminarily believes that the current IRS AMBS, which includes transactions from a group of currencies, is too high for some products, like JPY IRSs, and too low for others, like USD IRSs. In other words, USD IRSs are eligible for a dissemination delay, even though a delay may be unnecessary for a counterparty to hedge the trade at minimal additional cost due to the trade size, and that JPY IRSs are not eligible for a dissemination delay when the Commission preliminarily believes a delay is necessary for a counterparty to hedge the trade without incurring material additional costs due to the trade size.

In publishing the Block Trade Rule, the Commission had to rely on a small, private data set limited to IRSs and credit swaps.[148] Today, the Commission is able to analyze swap data from the SDRs. As described in the below sections, based on Commission staff analysis of SDR swap data across all asset classes, as well as discussions with market participants, the Commission preliminarily believes it is appropriate to re-evaluate the current swap categories for IRSs, credit swaps, FX swaps, and other commodity swaps in § 43.6(b).[149]

Although maintaining a limited set of swap categories is necessary, as a practical matter, to implement the block protocol and avoid excess complications and costs for market participants, the Commission believes that the AMBS for a swap category should be suited to the specific swap products in the swap category. Consequently, in some cases, the Commission is recommending increasing the number of swap categories to encompass smaller sets of swap transactions. The Commission preliminarily believes that the amendments to the categories proposed below would allow better tailoring of the block size to the profile of the swap transactions within the applicable swap category.

For the below analysis, Commission staff reviewed swap data from SDRs for a one-year period from May 2018 to May 2019 to develop swap categories that would generate block sizes suitable for the individual swap products in the category. The Commission then identified the proposed criteria discussed below as the most relevant for purposes of its analysis, for the reasons explained below. The Commission anticipates that these criteria would provide an appropriate way to group swaps with economic similarities while reducing unnecessary complexity for market participants in determining whether their swaps are classified within a particular swap category.

a. Interest Rate Asset Class

Current § 43.6(b)(1) sets forth the IRS categories. The current IRS categories are based on a unique combination of three currency groups and nine tenor ranges, for a total of 27 categories. The three currency groups are super-major currencies,[150] major currencies,[151] and non-major currencies.[152] The tenor ranges are: Zero to 46 days; 47 to 107 days; 108 to 198 days; 199 to 381 days; 382 to 746 days; 747 to 1,842 days; 1,843 to 3,668 days; 3,669 to 10,973 days; or 10,974 days and above.[153]

At the time the categories were adopted, the Commission recognized that using individual currencies would have correlated better with the underlying curves.[154] However, the Commission was concerned that using individual currencies would have resulted in nearly 200 swap categories, and the Commission had wanted to reduce the number to avoid unnecessary complexity.[155] The Commission was also concerned that more categories would not substantially increase the explanation of variations in notional amounts, and that some categories would contain too few observations.[156]

In reviewing the 2018–2019 STAPD, the Commission found that 15 currencies made up 96% of the total population of IRS trades. These 15 currencies are the currencies of Australia, Brazil, Canada, Chile, Czech Republic, the European Union, Great Britain, India, Japan, Mexico, New Zealand, South Africa, South Korea, Sweden, or the United States.

In light of the foregoing, for IRSs, the Commission proposes to establish separate swap categories for each combination of the 15 different currencies above[157] and the nine tenor ranges,[158] for a total of 135 swap categories. The nine tenor ranges would remain the same as the current nine tenor ranges in §§ 43.6(b)(1)(ii)(A)-(I). The proposed changes to the currencies would result in adding the currencies of Brazil, Chile, the Czech Republic, India and Mexico, and removing the currencies of Switzerland and Norway from current § 43.6(b)(1)(i)(A). The Commission believes the new swap categories will allow the Commission to establish AMBSs that better address the needs of these various swap products.

The Commission does not believe that the number of trades in currencies outside of the top 15 currencies in proposed § 43.6.(b)(1)(i)(A) is high enough to compute a reliable and robust AMBS. Therefore, the Commission is also proposing to create a 136th swap category, in § 43.6(b)(1)(ii), for IRSs that the Commission has preliminarily determined are relatively illiquid. This ''other'' category would include IRS transactions in currencies other than those of the 15 countries specified in proposed § 43.6(b)(1)(i)(A)(I)–(XV) and the nine tenors specified in § 43.6(b)(i)(B). The Commission is proposing to group these low liquidity swaps together and set their block size to zero, which would make each transaction in this swap category eligible for delayed dissemination.[159]

b. Credit Asset Class

Current § 43.6(b)(2) sets forth the credit swap categories. The current credit swap categories in § 43.6(b)(2) are based on combinations of three conventional spread levels and six tenor ranges, for a total of 18 swap categories. The current spread levels are: (1) CDSs with spread values under 175 bps; (2) CDSs with spread values between 175 and 350 bps; and (3) CDSs with spread values above 350 bps.[160] The current tenor ranges are: (1) 0–746 days; (2) 747–1,476 days; (3) 1,477–2,207 days; (4) 2,208–3,120 days; (5) 3,121–4,581 days; and (6) 4,581 days and above.[161]

[148] *See* Block Trade Rule at 32873. For the Block Trade Rule, the Commission relied on transaction-level data for credit swaps and IRSs from Over-the-Counter Derivatives Supervisors Group, IRS data from MarkitSERV, and credit data from The Warehouse Trust Company.

[149] As discussed below in section II.F.1.c., the Commission is not proposing to amend the equity asset class in current § 43.6(b)(3).

[150] The term ''Super-major currencies'' is defined in § 43.2 as the currencies of the European Monetary Union (*i.e.,* the euro), Japan (*i.e.,* the yen), the United Kingdom (*i.e.,* the pound sterling), and the United States (*i.e.,* the U.S. dollar).

[151] The term ''Major currencies'' is defined in § 43.2 as the currencies, and the cross-rates between the currencies, of Australia (*i.e.,* the Australian dollar), Canada (*i.e.,* the Canadian dollar), Denmark (*i.e.,* the Danish krone), New Zealand (*i.e.,* the Kiwi dollar), Norway (*i.e.,* the Norwegian krone), South Africa (*i.e.,* the South African rand), South Korea (*i.e.,* the South Korean won), Sweden (*i.e.,* the Swedish krona), and Switzerland (*i.e.,* the Swiss franc).

[152] The term ''Non-major currencies'' is defined in § 43.2 as all other currencies that are not super-major currencies or major currencies.

[153] The Commission is not proposing to amend the interest rate tenor ranges.

[154] Block Trade Rule at 32880.

[155] *Id.*

[156] *See id.*

[157] *See* proposed § 43.6(b)(1)(i)(A)(I)–(XV).

[158] *See* proposed § 43.6(b)(1)(i)(B)(I)–(IX).

[159] *See* proposed § 43.6(e)(4), discussed below in section II.F.3.

[160] § 43.6(b)(2)(i).

[161] § 43.6(b)(2)(ii).

In the Block Trade Rule, the Commission noted that it believed the tenor and conventional spread categories sufficiently captured the variation in notional size that is necessary for setting AMBS.[162] In particular, the Commission believed the proposed approach provided an appropriate way to group swaps with economic similarities while reducing unnecessary complexity for market participants in determining whether a particular swap was classified within a particular swap category.[163]

At the time, the Commission noted that the tenor buckets generally resulted in separate categorization for on-the-run and off-the-run indexes for swaps in its CDS data set, but declined to use these designations for grouping CDSs into categories because: (i) The underlying components of swaps with differing versions or series based on the same method or index are broadly similar, if not the same, and indicate economic substitutability across versions or series; (ii) differences in the average notional amount across differing versions or series were explained by differences in tenor; and (iii) using versions or series as the criterion for CDS categories could result in an unnecessary level of complexity.[164]

However, in analyzing 2018–2019 swap data from SDRs, the Commission now believes that CDS spreads may not be a consistent measure on which to base swap categories. Specifically, the Commission is concerned that products with similar spreads are not necessarily economically similar because all market participants may not calculate the same spread for a given product. In addition, a product's spread range can change, making it difficult for parties to be certain that they are eligible for block treatment.

Instead, the Commission has observed that most market participants trade specific credit products within specific tenor ranges. Based on its review of the swap data from SDRs, the Commission believes the most-traded CDS products are: (i) The CDXHY; (ii) iTraxx Europe, Crossover, and Senior Financials indexes; (iii) CDXIG; (iv) CDXEmergingMarkets; and (v) CMBX.[165] For each CDS product except for CMBX, the Commission has observed that the four to six year tenors, or 1,477 to 2,207 days, make up about 90% of all CDS trades.

In light of the foregoing, the Commission is proposing to replace the current spreads and tenor ranges in §§ 43.6(b)(2)(i) and (ii) with the seven product types above and four to six year tenor ranges in setting the parameters of the various credit swap categories. The Commission is proposing to set the new credit asset class categories in § 43.6(b)(2) as: (i) Based on the CDXHY product type and a tenor greater than 1,477 days and less than or equal to 2,207 days; (ii) based on the iTraxx Europe product type and a tenor greater than 1,477 days and less than or equal to 2,207 days; (iii) based on the iTraxx Crossover product type and a tenor greater than 1,477 days and less than or equal to 2,207 days; (iv) based on the iTraxx Senior Financials product type and a tenor greater than 1,477 days and less than or equal to 2,207 days; (v) based on the CDXIG product type and a tenor greater than 1,477 days and less than or equal to 2,207 days; (vi) based on the CDXEmergingMarkets product type and a tenor greater than 1,477 days and less than or equal to 2,207 days; and (vii) based on the CMBX product type.

The Commission does not believe the trade count outside of the products and/or tenor ranges proposed in § 43.6(b)(2)(i)–(vii) is high enough to compute a robust and reliable AMBS. Therefore, the Commission is proposing to add a swap category in § 43.6(b)(2)(viii) for credit swaps that trade at relatively low liquidity and set the block size for these illiquid credit swaps at zero, which would make each transaction in this swap category eligible for delayed dissemination.[166]

c. Equity Asset Class

Current § 43.6(b)(3) specifies that there shall be one swap category consisting of all swaps in the equity asset class. Unlike the other four asset class categories, the equity asset class contains no subcategories. The Commission adopted this approach in the Block Trade Rule based on: (i) The existence of a highly liquid underlying cash market for equities; (ii) the absence of time delays for reporting block trades in the underlying equity cash market; (iii) the small relative size of the equity index swaps market relative to futures, options, and cash equity index markets; and (iv) the Commission's goal of protecting the price discovery function of the underlying equity cash market and futures market.[167]

The Commission has not learned of anything since the Block Trade Rule that would suggest there is not a highly liquid underlying cash market for equities and that the equity index swaps market is not still small relative to the futures, options, and cash equity index markets. Based on the foregoing, the Commission is not proposing to amend the equity asset class in § 43.6(b)(3).

d. Foreign Exchange Asset Class

Current § 43.6(b)(4) sets forth the FX swap categories. The current FX swap categories are grouped by: (i) The unique currency combinations of one super-major currency[168] paired with another super major currency, a major currency,[169] or a currency of Brazil, China, Czech Republic, Hungary, Israel, Mexico, Poland, Russia, and Turkey; or (ii) unique currency combinations not included in § 43.6(b)(4)(i).[170]

In establishing the FX swap categories in § 43.6(b)(4)(i), the Commission believed that the categories would cover the most liquid currency combinations while minimizing complexity by using a small number of swap categories.[171] To establish the FX swap categories, the Commission primarily relied on the Survey of North American FX Volume in October 2012 conducted by the Foreign Exchange Committee.[172] The survey suggested that the categories in § 43.6(b)(4)(i) would cover more than 86% of the notional value of total monthly volume of FX swaps that are priced or facilitated by traders in North America.[173]

[162] *See* Block Trade Rule at 32883.

[163] *See id.*

[164] *See id.*

[165] The Markit CDX family of indices is the standard North American CDS family of indices, with the primary corporate indices being the CDX North American Investment Grade (consisting of 125 investment grade corporate reference entities) (CDX.NA.IG) and the CDX North American High Yield (consisting of 100 high yield corporate reference entities) (CDX.NA.HY). The Markit CDX Emerging Markets Index (CDX.EM) is composed of 15 sovereign reference entities that trade in the CDS market. The Market CMBX index is a synthetic tradable index referencing a basket of 25 commercial mortgage-backed securities. Markit iTraxx indices are a family of European, Asian and Emerging Market tradable CDS indices.

[166] *See* proposed § 43.6(e)(4), discussed below in section II.F.3.

[167] *See* Block Trade Rule at 32884.

[168] The term ''Super-major currencies'' is defined in § 43.2 as the currencies of the European Monetary Union (*i.e.,* the euro), Japan (*i.e.,* the yen), the United Kingdom (*i.e.,* the pound sterling), and the United States (*i.e.,* the U.S. dollar).

[169] The term ''Major currencies'' is defined in § 43.2 as the currencies, and the cross-rates between the currencies, of Australia (*i.e.,* the Australian dollar), Canada (*i.e.,* the Canadian dollar), Denmark (*i.e.,* the Danish krone), New Zealand (*i.e.,* the Kiwi dollar), Norway (*i.e.,* the Norwegian krone), South Africa (*i.e.,* the South African rand), South Korea (*i.e.,* the South Korean won), Sweden (*i.e.,* the Swedish krona), and Switzerland (*i.e.,* the Swiss franc).

[170] *See* § 43.6(b)(4).

[171] *See* Block Trade Rule at 32885.

[172] The Foreign Exchange Committee is an industry group that provides guidance and leadership to the FX market that includes representatives of major financial institutions engaged in foreign currency trading in the United States and is sponsored by the Federal Reserve Bank of New York.

[173] *See* Block Trade Rule at 32885.

In reviewing the 2018–2019 swap data from SDRs, the Commission observed that almost 94% of the over 7 million FX swaps included USD as one currency in each swap's currency pair. Of these swaps, the top-20 currencies paired with USD were currencies from Argentina, Australia, Brazil, Canada, Chile, China, Colombia, the European Union, Great Britain, India, Indonesia, Japan, Malaysia, Mexico, New Zealand, Peru, Philippines, Russia, South Korea, or Taiwan.

In light of the foregoing, the Commission proposes to replace the swap categories in § 43.6(b)(4) for FX swaps with new swap categories by currency pair. The Commission believes new swap categories would allow the Commission to generate AMBSs that address the needs of market participants trading these various swap products. Proposed § 43.6(b)(4)(i) would be comprised of FX swaps with one currency of the currency pair being USD, paired with another currency from one of the following: Argentina, Australia, Brazil, Canada, Chile, China, Colombia, the European Union, Great Britain, India, Indonesia, Japan, Malaysia, Mexico, New Zealand, Peru, Philippines, Russia, South Korea, or Taiwan.

The Commission proposes to create a new category for FX swaps where neither currency in the currency pair is USD in proposed § 43.6(b)(4)(ii). Proposed § 43.6(b)(4)(ii) would be comprised of swaps with currencies from Argentina, Australia, Brazil, Canada, Chile, China, Colombia, the European Union, Great Britain, India, Indonesia, Japan, Malaysia, Mexico, New Zealand, Peru, Philippines, Russia, South Korea, or Taiwan. As discussed further below in the discussion about amendments to the process to determine AMBS in section II.F.1.d., the Commission is proposing that parties to these FX swaps could elect to receive block treatment if the notional amount of either currency in the currency exchange is greater than the minimum block size for a FX swap between the respective currencies, in the same amount, and USD described in § 43.6(b)(4)(i).

The Commission does not believe there is sufficient trade count in FX swaps outside of the currency pairs proposed in § 43.6(b)(4)(i)–(ii) to compute a reliable and robust AMBS. Therefore, the Commission is proposing to add a swap category in § 43.6(b)(4)(iii) for FX swaps that trade at relatively low liquidity, and set the block size for these illiquid FX swaps at zero, which would make each transaction in this swap category eligible for delayed dissemination.[174]

e. Other Commodity Asset Class

Current § 43.6(b)(5) sets forth the other commodity swap categories. The current other commodity swap categories are grouped by either (1) the relevant contract referenced in appendix B of part 43 [175] with respect to swaps that are economically related to a contract in appendix B, or (2) the following futures-related swaps with respect to swaps that are not economically related to contracts in appendix B: CME Cheese; CBOT Distillers' Dried Grain; CBOT Dow Jones-UBS Commodity Index; CBOT Ethanol; CME Frost Index; CME Goldman Sachs Commodity Index (GSCI), (GSCI Excess Return Index); NYMEX Gulf Coast Sour Crude Oil; CME Hurricane Index; CME Rainfall Index; CME Snowfall Index; CME Temperature Index; or CME U.S. Dollar Cash Settled Crude Palm Oil.[176] Swaps that are not covered in either § 43.6(b)(5)(i) or § 43.6(b)(5)(ii) are categorized according to the relevant product type referenced in appendix D of part 43.[177]

The swap categories in § 43.6(b)(5)(i) differ from those in § 43.6(b)(5)(ii) in that the former may be economically related to futures or swaps that *are not* subject to the block trade rules of a DCM, whereas the latter are economically related to futures contracts that are subject to the block trade rules of a DCM.[178] Despite that difference, the Commission established the §§ 43.6(b)(5)(i)–(ii) swap categories and related initial block sizes to correspond with those set by DCMs for economically related futures contracts.[179]

The Commission noted in the Block Trade Rule that it was relying on DCMs' knowledge of, and experience with, liquidity in related futures markets until additional data became available.[180] In addition, the Commission noted that it was not using additional criteria to create more granular swap categories in the other commodity asset class until swap data became available.[181]

The Commission proposes to establish swap categories for the other commodity swaps asset class based on the list of underliers in current appendix D to part 43. The Commission proposes to modify the list of underliers in current appendix D and to redesignate the appendix as appendix A as a result of the proposed removal of current appendices A through C. For swaps that have a physical commodity underlier listed in proposed appendix A to part 43, proposed § 43.6(b)(5)(i) would group swaps in the other commodity asset class by the relevant physical commodity underlier. The proposed list of underliers in appendix A would be based on broad commodity categories the Commission has identified from its review of the swap data from SDRs, rather than references to specific futures contracts.

For other commodity swaps outside of those based on the underliers in proposed appendix A, the Commission does not believe trade count is high enough to compute a robust and reliable AMBS. Therefore, the Commission is proposing to add a swap category in § 43.6(b)(5)(ii) for relatively illiquid other commodity swaps and set the block size for these swaps at zero.[182]

2. § 43.6(c)—Methodologies To Determine Appropriate Minimum Block Sizes and Cap Sizes

The Commission adopted §§ 43.6(c)–(f) and (h) to establish a phased-in approach for determining AMBSs, with an initial period and a post-initial period for determining AMBSs and cap sizes for each swap category.[183]

Regulation 43.6(c) sets forth the methodologies for the Commission to determine AMBSs and cap sizes using the PRSTs in the swap categories

[174] *See* proposed § 43.6(e)(4), discussed below in section II.F.3.

[175] Appendix B to part 43 lists 42 swap categories based on such contracts.

[176] *See* § 43.6(b)(5)(i)–(ii). The 18 swap categories in § 43.6(b)(5)(ii) are based on futures contracts to which swaps in these categories are economically related.

[177] *See* § 43.6(b)(5)(iii). Appendix D establishes ''other'' commodity groups and individual other commodities within these groups. These categories are for swaps that are not economically related to any of the contracts listed in appendix B or any of the contracts listed in § 43.6(b)(5)(ii). If there is an individual other commodity listed, the Commission would deem it a separate swap category, and thereafter set an AMBS for each such swap category. If a swap unrelated to a specific other commodity listed in the other commodity group in appendix D, the Commission would categorize such swap as falling under the relevant other swap category. *See* Block Trade Rule at 32888. As discussed below in this section, the Commission is proposing to redesignate appendix D as appendix A, and replace it with updated swap categories for the other commodity asset class.

[178] *See id.* at 32887.

[179] *See id.* at 32888.

[180] *See id.*

[181] *See id.*

[182] *See* proposed § 43.6(e)(4), discussed below in section II.F.3.

[183] Block Trade Rule at 32918. Appendix F to part 43 currently contains a schedule of AMBSs effective during the initial period. Regulations 43.6(e) and (f) set forth the initial AMBSs and the post-initial process to determine AMBSs, while § 43.6(c) contained the methodologies for the Commission to do so with the swap categories set forth in § 43.6(b).

established pursuant to § 43.6(b). Current § 43.6(c) sets forth three alternative, notional-based statistical calculations: a 50-percent notional amount calculation; a 67-percent notional amount calculation; and a 75-percent notional amount calculation.[184] Each methodology is intended to ensure that within a swap category, the stated percentage of the sum of the notional amounts of all swap transactions in that category are disseminated on a real-time basis.

In general, the instructions for each of the 50-percent, 67-percent, and 75-percent levels to calculate AMBSs and cap sizes require the Commission to select all PRSTs within a swap category using one year's worth of data, converting them to the same currency and using a trimmed data set, determine the sum of the notional amounts of swaps in the trimmed data set, multiply the sum of the notional amounts by 50, 67, or 75 percent, rank the results from least to greatest, calculate the cumulative sum of the observations until it is equal to or greater than the 50, 67, or 75-percent notional amount, select and round the notional amount, and set the AMBS equal to that amount.[185]

For the initial period, the Commission applied the 50-percent notional amount calculation in § 43.6(c)(1) to determine the AMBS.[186] For AMBS in the post-initial period, the Commission was to adopt the 67-percent notional amount calculation in current § 43.6(c)(2).[187]

The Commission set the initial cap sizes as the greater of the interim cap sizes (the period of time before the initial period) in all five asset classes set forth in the 2012 RTR Final Rule and the AMBS for the respective swap category calculated pursuant to the 50-percent notional amount calculation.[188] The Commission was to use the 75-percent notional amount calculation in current § 43.6(c)(3) to determine the appropriate post-initial cap sizes for all swap categories.[189] However, the Commission has not calculated the block sizes or cap sizes for the post-initial period.

The Commission is proposing several changes to the AMBS and cap size methodologies in § 43.6(c). First, the Commission is proposing to remove the 50-percent notional amount calculation in § 43.6(c)(1) because the 50-percent notional amount calculation was only intended to be used for calculating the AMBS for the interest rate and credit swap categories in the initial period,[190] and the initial period has now passed. Based on the proposed removal of § 43.6(c)(1), the Commission is proposing to re-designate §§ 43.6(c)(2) and (3) as §§ 43.6(c)(1) and (2), respectively.

The Commission is also proposing minor amendments to the calculations in current §§ 43.6(c)(2)–(3) (the 67-percent and 75-percent notional amount calculations, respectively). The Commission is proposing to update certain steps of the statistical calculations set forth in current §§ 43.6(c)(2)(i)–(ix), proposed to be re-designated as § 43.6(c)(1)(i)–(ix). Current § 43.6(c)(2)(i) requires the Commission to select all PRSTs within a specific swap category using a one-year window of data. As re-designated, proposed § 43.6(c)(1)(i) would require the Commission to select all reliable SDR data for at least a one-year period for each relevant swap category. The Commission believes this revision will simplify the language and clarify that the Commission will be using SDR data in its calculations.

Current § 43.6(c)(2)(ii) requires the Commission to convert to the same currency or units and use a trimmed data set but does not specify what is being converted. As redesignated, proposed § 43.6(c)(1)(ii) would clarify that the Commission will convert the notional amount to the same currency or units and use a trimmed data set. The Commission considers this to be a non-substantive amendment to improve the readability of step (ii) in the methodology.

As mentioned above in the discussion of the proposed amendments to the definition of ''trimmed data set,'' the Commission is also proposing to change the number of standard deviations used for excluding outliers in the data set. The current definition of ''trimmed data set'' has the Commission remove extraordinarily large notional transactions by transforming the data into a logarithm with a base of 10, computing the mean, and excluding transactions that are beyond four standard deviations above the mean.

As explained in the Block Trade Rule, trimming the data set is necessary to avoid the skewing of these measures, which could lead to the establishment of inappropriately high minimum block sizes.[191] However, in applying these methodologies to propose updates to the block and cap sizes, Commission staff found that excluding commodity transactions beyond four standard deviations above the mean led to the inclusion of more extraordinarily large notional transactions that staff worried would skew results. With commodity swaps in particular, the Commission is concerned that the wide variation in how reporting counterparties report notional amounts leads to more outliers that should not be included in the trimmed data set.

Commission staff found a similar issue with four standard deviations for the other asset classes, but to a lesser extent than commodities, that the Commission preliminarily believes could be addressed by moving from four standard deviations to three. In each case, the Commission invites comment on staff's approach and findings with respect to the methodologies and accounting for outliers. Until then, the Commission is proposing updating the definition of ''trimmed data set'' to mean a data set that has had extraordinarily large notional transactions removed by transforming the data into a logarithm with a base of 10, computing the mean, and excluding transactions that are beyond two standard deviations above the mean for the other commodity asset class and three standard deviations above the mean for all other asset classes.

In the Block Trade Rule proposal, the Commission provided the following example to explain the rounding instructions in § 43.6(c)(2)(viii): ''if the observed notional amount is $1,250,000, the amount should be increased to $1,300,000. This adjustment is made to assure that at least 67 percent of the total notional amount of transactions in a trimmed data set are publicly disseminated in real time.'' [192]

Current § 43.6(c)(2)(viii) directs the Commission to round the notional amount of the observation discussed in § 43.6(c)(2)(vii) ''to'' two significant

[184] *See* §§ 43.6(c)(1), (2), and (3), respectively.

[185] *See generally* §§ 43.6(c)(1)–(3). Once the AMBS is set, the Commission sets the related cap size pursuant to § 43.6(h). For the post-initial period, current § 43.6(h) requires the Commission to use reliable data collected by SDRs based on: (i) A one-year window of STAPD corresponding to each relevant swap category recalculated no less than once each calendar year; and (ii) the 75-percent notional amount calculation described in § 43.6(c)(3) applied to the STAPD described in § 43.6(h)(2)(i). The Commission's proposed amendments to the process to determine cap size are discussed above in section II.D.4.

[186] *See* § 43.6(e).

[187] *See* § 43.6(f)(2).

[188] *See* § 43.4(h)(1).

[189] *See* § 43.4(h)(2)(ii). As discussed above in section II.D.3., the Commission is proposing to revise the process to determine cap size in § 43.4(g), which the Commission proposes to re-designate from § 43.4(h), but proposes to continue to use the 75-percent notional amount calculation for cap sizes.

[190] § 43.6(e)(1). The Commission applied the 50-percent notional amount calculation methodology in § 43.6(c)(1) and published the related AMBS in appendix F to part 43.

[191] *See* Block Trade Rule at 32895.

[192] Block Trade Rule at 15480 n.192.

digits,[193] or if the notional amount is already significant ''to'' two digits, increase the notional amount to the next highest rounding point of two significant digits. The Commission is proposing to revise § 43.6(c)(1)(viii) to specify that the Commission has to round the notional amount of the observation ''up to'' two significant digits, or if it is already significant ''to only'' two digits, increase the notional amount to the next highest rounding point of two significant digits. The Commission believes changing ''to'' to ''up to'' and ''to only,'' respectively, in § 43.6(c)(2)(vii) would clarify the Commission's intent consistent with the above example.

Finally, the Commission is proposing to replace the individual instructions for the 75-percent notional amount calculation contained in current § 43.6(c)(3) with a cross-reference in proposed § 43.6(c)(2) to the procedures set out in proposed § 43.6(c)(1). Since the steps for the calculations are the same, the Commission believes simply cross-referencing in proposed § 43.6(c)(2) the procedures in proposed § 43.6(c)(1) will help ensure that market participants do not believe the calculation procedures are different.

3. § 43.6(e)—Process To Determine Appropriate Minimum Block Sizes

The Commission is proposing several amendments to the § 43.6 processes for determining AMBS. Current §§ 43.6(e) and (f) set forth the processes for the Commission to set the AMBS in the initial and post-initial periods by applying the methodologies in § 43.6(c) and using the PRSTs within the swap categories established pursuant to § 43.6(b).

For the initial period, § 43.6(e) established that the AMBS for PRSTs in the IRS category, credit swap category, FX swap category in § 43.6(b)(4)(i), and the other commodity category in § 43.6(b)(5)(i) or (ii) was the AMBS in appendix F to part 43.[194] Swaps in the FX swap category in § 43.6(b)(4)(ii), and other commodity swap category in § 43.6(b)(5)(iii), were eligible to be treated as block trades or LNOFSs, as applicable.[195]

Regulation 43.6(e)(3) provided an exception from treatment as block trades or LNOFs (as applicable) for PRSTs in the other commodity swap category in § 43.6(b)(5)(i) that were economically related to a futures contract in appendix B of part 43, if such futures contract is not subject to a DCM's block trading rules.

For the post-initial period, § 43.6(f) directed the Commission to establish, after an SDR collected at least one year of reliable data for a particular asset class, the post-initial AMBS, by swap categories.[196] For the swap categories listed in § 43.6(e)(1), the Commission was to apply the 67-percent notional amount calculation.[197] Swaps in the FX category in § 43.6(b)(4)(ii) were eligible for block trade or LNOF treatment, as applicable.[198]

Regulation 43.6(f)(4) directed the Commission to publish the post-initial AMBSs on its website and stated that the AMBSs would be effective on the first day of the second month following the date of publication.[199] However, the Commission has not published any post-initial AMBSs.

Since the initial period has passed, the Commission is proposing to remove the regulations for the initial AMBS in current § 43.6(e) and appendix F, which, as described above, specifies the initial AMBSs for PRSTs in the swap categories specified in current § 43.6(e)(1). To avoid retaining § 43.6(e) in its regulations with no text other than ''Reserved,'' the Commission is proposing to re-designate § 43.6(f) as § 43.6(e) and rename it ''Process to determine appropriate minimum block sizes.''

In new § 43.6(e), the Commission would be required to apply the 67-percent notional amount calculation to calculate new AMBS, as current § 43.6(f) specified for the post-initial period. Proposed § 43.6(e)(1) would state that the Commission shall establish AMBS, by swap categories, as described in § 43.6(e)(2)–(5). Proposed § 43.6(e)(2) would state that the Commission shall determine the AMBS for the swap categories described in §§ 43.6(b)(1)(i), (b)(2)(i)–(vii), (b)(4)(i), and (b)(5)(i) by applying the 67-percent notional amount methodology in proposed § 43.6(c)(1).

Proposed § 43.6(e)(3) would set forth a method for determining which block sizes are applicable to FX swaps. Proposed § 43.6(e)(3) would specify that the parties to a FX swap described in § 43.6(b)(4)(ii) may elect to receive block treatment if the notional amount of either currency would receive block treatment if the currency were paired with USD. In other words, for each currency underlying the FX swap, the counterparties would determine whether the notional amount of either currency would be above the block threshold if paired with USD, as described in § 43.6(b)(4)(i). If either notional amount paired with USD was greater than the block threshold, the swap described in § 43.6(b)(4)(ii) would qualify for block treatment.

As discussed above in section II.F.1., the Commission is proposing to set the block size of all swaps in the swap categories described in §§ 43.6(b)(1)(ii), (b)(2)(viii), (b)(4)(iii), and (b)(5)(ii) at zero and make all such swaps eligible to be treated as block trades in proposed § 43.6(e)(4). Finally, the Commission is proposing to remove current appendix F and specify in proposed § 43.6(e)(5) that the Commission would publish the AMBSs determined pursuant to § 43.6(e)(1) on its website at *https://www.cftc.gov.*

4. § 43.6(f)—Required Notification

The Commission is proposing to re-designate current § 43.6(g) as § 43.6(f) to reflect the consolidation of §§ 43.6(e) and (f) discussed above in section II.F.3. and avoid designating § 43.6(f) as reserved in the Code of Federal Regulations. Current § 43.6(g) sets forth the requirements for parties to notify their execution venue (*i.e.,* SEF or DCM) of the parties' block trade or LNOF elections.

The Commission is proposing to revise the content of current § 43.6(g)(1)(i) (redesignated as § 43.6(f)(1)(i)) to clarify that parties to a PRST with a notional at or above the AMBS can elect to have the PRST treated as a block trade. As background, current § 43.6(g)(1)(i) requires the parties to a PRST that has a notional amount at or above the AMBS to notify the relevant SEF or DCM, as applicable, pursuant to the rules of such SEF or DCM, of their election to have the PRST treated as a block trade. As background, current § 43.6(g)(1)(i) requires the parties to a PRST that has a notional amount at or above the AMBS to notify the relevant SEF or DCM, as applicable, pursuant to the rules of such SEF or DCM, of its election to have the PRST treated as a block trade. The Commission intended for § 43.6(g)(1)(i)

[193] By significant digits, the Commission means the number of digits in a figure that express the precision of a measurement instead of its magnitude. In a measurement, commonly the in-between or embedded zeros are included but leading and trailing zeros are ignored. Non-zero digits, and leading zeros to the right of a decimal point, are always significant.

[194] *See* § 43.6(e)(1). The Commission applied the 50-percent notional amount calculation to the credit and interest rate swap categories in appendix F. As discussed further below in this section, the Commission is proposing to remove appendix F and publish the new AMBS for PRSTs on the Commission's website, *https://www.cftc.gov.*

[195] *See* § 43.6(e)(2).

[196] *See* § 43.6(f)(1). Regulation 43.6(f)(1) also specified that the Commission had to update those AMBSs no less than once each calendar year thereafter.

[197] *See* § 43.6(f)(2).

[198] *See* § 43.6(f)(3).

[199] § 43.6(f)(5).

to establish that the parties to a PRST with a notional amount at or above the AMBS would be required to notify the SEF or DCM of their election to have their qualifying PRST treated as a block trade.[200] However, the Commission is concerned that the current phrasing of the regulation suggests parties must elect to have a qualifying PRST treated as a block trade, instead of providing parties with the discretion to choose.

As a result, to remove any ambiguity, proposed § 43.6(f)(1)(i) would state that if the parties make such an election, the reporting counterparty must notify the SEF or DCM.

Current § 43.6(g)(1)(ii) requires the execution venue (*i.e.,* SEF or DCM) to notify the SDR of such a block trade election when transmitting STAPD to the SDR in accordance with § 43.3(b)(1). The Commission is retaining the substance of current § 43.6(g)(1)(ii) in re-designated § 43.6(f)(1)(ii), but removing the specific reference to § 43.3(b)(1) and streamlining the language to state that the SEF or DCM, as applicable, shall notify the SDR of such a block trade election when reporting the STAPD to such SDR in accordance with part 43.

The Commission is proposing to add new § 43.6(f)(1)(iii) to clarify that SEFs and DCMs may not disclose block trades prior to the expiration of the applicable dissemination delay. The Commission has previously explained that the dissemination delays in part 43 are intended to protect end users and liquidity providers from the expected price impact of the disclosure of block trades.[201] The Commission believes that it is current practice for SEFs and DCMs to wait until the expiration of the applicable dissemination delay before disclosing block trades. However, the Commission believes market participants would benefit from having this requirement codified to avoid ambiguity. As a result, proposed § 43.6(f)(1)(iii) would state that SEFs or DCMs shall not disclose STAPD relating to block trades subject to the block trade election prior to the expiration of the applicable delay set forth in § 43.5(c).

Current § 43.6(g)(2) states that reporting parties who execute an off-facility swap that has a notional amount at or above the AMBS shall notify the applicable registered SDR that such swap transaction qualifies as an LNOF concurrently with the transmission of STAPD in accordance with part 43. The Commission is proposing to revise § 43.6(g)(2), which would be re-designated as § 43.6(f)(2). The proposed amendments to § 43.6(g)(2) are similar to the proposed amendments to § 43.6(f)(1)(i). Specifically, the Commission is proposing to clarify that parties to a PRST that is an off-facility swap with a notional at or above the AMBS can elect to have the PRST treated as a block trade. Revised § 43.6(f)(2) would state that if the parties make such an election, the reporting counterparty must notify the SDR.

5. § 43.6(g)—Special Provisions Relating to Appropriate Minimum Block Sizes and Cap Sizes

The Commission is proposing to re-designate current § 43.6(h) as § 43.6(g) in response to the consolidation of §§ 43.6(e) and (f) and to avoid designating § 43.6(f) as reserved in the Code of Federal Regulations, as discussed above in section II.F.3.[202] The Commission also proposes to remove current § 43.6(h)(5), which contains a provision for determining the appropriate currency classification for currencies that succeed super-major currencies. Regulation 43.6(h)(5) would no longer be necessary due to the proposed modifications in § 43.6(b) changing the swap categories to individual currencies rather than currency groups like super-major currencies.

As a result of the proposed removal of § 43.6(h)(5), the Commission proposes to re-designate the current § 43.6(h)(6) aggregation provision as § 43.6(g)(5) rather than § 43.6(g)(6) and to make certain substantive changes to re-designated § 43.6(g)(5).

Current § 43.6(h)(6) generally prohibits the aggregation of orders for different accounts to satisfy minimum block trade size or cap size requirements but contains an exception for orders on SEFs and DCMs by certain commodity trading advisors (''CTAs''), investment advisers, and foreign persons performing a similar role or function. The Commission believed such a prohibition was necessary to ensure the integrity of block trade principles and preserve the basis for the anonymity associated with establishing cap sizes.[203]

While the aggregation prohibition in current § 43.6(h)(6) is intended to incentivize trading on SEFs and DCMs, the Commission recognizes this incentive does not exist for swaps that are not listed or offered for trading on SEFs and DCMs.[204] The Commission is therefore proposing to amend the aggregation prohibition to provide for swaps listed or offered for trading on SEFs and DCMs.

Current § 43.6(h)(6)(ii) conditions the exception from the aggregation prohibition on a CTA, investment adviser, or foreign person having more than $25 million in assets under management. In adopting this condition, the Commission explained that the $25 million threshold would help ensure that persons allowed to aggregate orders were appropriately sophisticated, while at the same time not excluding an unreasonable number of CTAs, investment advisers, and similar foreign persons.[205]

However, since the Block Trade Rule was adopted, the Commission has come to believe that the $25 million threshold may be excluding more participants from taking advantage of the exception than DMO staff initially expected. Therefore, the Commission is proposing to remove the $25 million threshold in current § 43.6(h)(6)(ii) and, therefore, to not incorporate that into proposed § 43.6(g)(5) as a condition, even though it was a condition of the relief in NAL 13–48.

Finally, the Commission is proposing several non-substantive changes throughout proposed § 43.6(g)(5). These changes include rephrasing the introductory text for clarity, updating cross-references, and specifying in proposed §§ 43.6(g)(5)(ii) and (iii) that the aggregated transaction is reported as a block trade, and the aggregated orders are executed as one swap transaction, respectively.

6. § 43.6(h)—Eligible Block Trade Parties

The Commission is proposing to re-designate § 43.6(i) as § 43.6(h) in response to the consolidation of §§ 43.6(e) and (f) to avoid designating § 43.6(f) as reserved in the Code of Federal Regulations, as discussed above in section II.F.3. In addition, to conform to the proposed revisions to § 43.6(h)—specifically the removal of the $25

[200] *See* Block Trade Rule at 32904.

[201] *See* Block Trade Rule at 32870 n.46.

[202] The Commission is proposing a related conforming change in § 43.6(a). Currently, that paragraph cross-references § 43.6(h). The Commission proposes to update that provision so it cross-references § 43.6(g) to reflect the re-designation.

[203] *See* Block Trade Rule at 32904.

[204] In 2013, DMO granted indefinite no-action relief extending the exception to swaps that are not listed or offered for trading on a SEF or a DCM. *See* No-Action Relief For Certain Commodity Trading Advisors and Investment Advisors From the Prohibition of Aggregation Under Regulation 43.6(h)(6) for Large Notional Off-Facility Swaps, CFTC Staff No-Action Letter No. 13–48 (Amended), (Aug. 6, 2013), available at *https://www.cftc.gov/sites/default/files/idc/groups/public/@lrlettergeneral/documents/letter/13-48.pdf* (''NAL 13–48''). The Commission is proposing to incorporate this no-action relief, along with its related conditions (with one exception discussed below), into proposed § 43.6(g)(5).

[205] Block Trade Rule at 32905.

million assets under management threshold in current § 43.6(h)(6)(ii)—the Commission is proposing to remove the $25 million threshold in current § 43.6(i)(1)(iii) (*i.e.,* § 43.6(h)(1)(iii), as re-designated). The Commission is also proposing several non-substantive ministerial changes, such as correcting cross-references and capitalization.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 43.6. In addition, the Commission requests specific comment on the following:

(18) Would the proposed new other commodity categories be useful to SDRs and counterparties? Please explain why or why not.

(19) Are there other categories the Commission should add or remove for other commodities? Please explain any recommendations to add or remove a category.

(20) The Commission is proposing minor updates to the methodologies for calculating AMBS and cap sizes. Should the Commission consider other changes to the methodologies? Please provide examples and data, where possible.

G. § 43.7—Delegation of Authority

The Commission is proposing several changes to § 43.7, which is a rule governing Commission delegation of certain authority to the DMO Director or such other employee or employees as the DMO Director may designate from time to time (''DMO staff''). The Commission is proposing to add a new paragraph (a)(1) that would delegate to DMO the authority to publish the technical specifications providing the form and manner for reporting and publicly disseminating the STAPD elements in appendix C as described in §§ 43.3(d)(1) and 43.4(a). If it chooses to, the Commission may, pursuant to § 43.7(c), which the Commission is not proposing to amend, exercise any authority delegated pursuant to proposed § 43.7(a)(1) (or any other authority delegated pursuant to § 43.7(a)) rather than permit DMO staff to exercise such authority.

Because there currently is a § 43.7(a)(1) (delegation of authority to determine whether swaps fall within specific swap categories as described in § 43.6(b)), the Commission is proposing to renumber existing § 43.7(a)(1) as § 43.7(a)(3).

The Commission is further proposing to renumber existing § 43.7(a)(2) (authority to determine and publish post-initial, AMBSs as described in § 43.6(f)) as § 43.7(a)(4) and to replace the reference to § 43.6(f) (the rule pursuant to which post-initial, AMBSs are determined) with a reference to § 43.6(e) to conform to the Commission's proposed movement of the cap size determination process itself from § 43.6(f) § 43.6(e). The proposed changes to post-initial AMBSs are discussed above in section II.F.3.

Additionally, the Commission is proposing to renumber existing § 43.7(a)(3) (authority to determine post-initial cap sizes as described in § 43.4(h)) as § 43.7(a)(2). Related to this, the Commission is proposing to delete the term ''post-initial,'' given that the Commission already determined initial cap sizes, and is proposing to replace the reference to § 43.4(h) (the rule pursuant to which post-initial cap sizes are determined) with a reference to § 43.4(g) to conform to the Commission's proposed movement of the cap size determination process itself from § 43.4(h) to proposed § 43.4(g). The proposed changes to post-initial cap sizes are discussed above in section II.D.4.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 43.7. The Commission also requests specific comment on the following:

(21) Do the Commission's proposed amendments to the current § 43.6(h) aggregation prohibition create any problems for market participants?

(22) Should the Commission retain the $25 million assets under management eligibility requirement? Please explain in detail why the Commission should or should not retain the eligibility requirement.

III. Swap Transaction and Pricing Data Reported to and Publicly Disseminated by SDRs

A. General

The Commission is proposing to remove the list of STAPD elements in appendix A to part 43 and revise the list to update it [206] to further standardize the STAPD being reported to, and publicly disseminated by, SDRs. The STAPD elements are currently found in appendix A, which states that, among other things, SDRs must publicly disseminate the information in appendix A in a ''consistent form and manner'' for swaps within the same asset class.

Appendix A includes a description of each field, in most cases phrased in terms of ''an indication'' of the data that must be reported and disseminated and an example illustrating how the field could be populated. For example, the description of the ''Asset class'' field in table A1 of appendix A calls for an indication of one of the broad categories as described in § 43.2(e), and the example provided states IR (*e.g.,* interest rate asset class).

In adopting appendix A to part 43, the Commission believed consistency could be achieved in the data, but intentionally avoided prescriptive requirements in favor of flexibility in reporting the various types of swaps.[207] The Commission recognizes that over the years each SDR has further standardized the STAPD reported and disseminated. However, SDRs have implemented the field list in appendix A in different ways, causing publicly disseminated messages to appear differently depending on the SDR. As such, the Commission now believes a significant effort must be made to standardize STAPD across SDRs, as part of a larger effort to standardize swap data both across U.S. SDRs and across jurisdictions, as described below.

As part of the Roadmap review, DMO announced its intention to propose a detailed technical specification for data fields.[208] DMO received many comments on data fields in response to the Roadmap. In general, commenters stated that the Commission should ensure that all required fields are set forth in the appendices to parts 43 and 45.[209] The same commenters suggested that the differences between the data fields in parts 43 and 45 should be reconciled.[210] Additionally, commenters stated that data fields should be standardized [211] and only those fields that are specified in part 43 should be disseminated by the SDR.[212] One commenter also suggested that the Commission clarify what a reporting counterparty is obligated to report when data fields do not apply or are not available at the time of reporting.[213]

In response, the Commission reviewed the data fields in appendix A

[206] As discussed in section II.E.3., the Commission is proposing to delete appendix C in connection with changes to the block delays. In its place, the Commission is proposing to update the list of STAPD elements in current appendix A and move them to appendix C.

[207] *See* Real-Time Public Reporting of Swap Transaction Data, 77 FR 1182, 1224.

[208] Roadmap at 9.

[209] Letter from CME at 3; Joint SDR Letter at 2–3.

[210] Joint SDR Letter at 2–3.

[211] Letter from the Commercial Energy Working Group (''CEWG'') (Aug. 21, 2017) at 3; Joint ISDA–SIFMA Letter at 5–6 (noting that data fields should be harmonized globally to the extent possible.); Letter from LCH at 2 (noting that clarification of the CFTC's required minimum standards for submission of data will be helpful following the next phase of the international setting process.); Letter from NGSA at 1; Joint SDR Letter at 2–3.

[212] Letter from CEWG at 3.

[213] Joint ISDA–SIFMA Letter at 6.

to update the current list and provide further specifications on reporting and public dissemination. As an initial matter, the Commission notes that this assessment was part of a larger review of the parts 43 and 45 data the Commission requires to be reported to, and publicly disseminated by, SDRs. In the course of determining which data elements to propose in parts 43 and 45, the Commission reviewed the STAPD data fields in appendix A and the swap data elements in appendix 1 to part 45 to determine if any currently required data elements should be eliminated and if any additional data elements should be added. As part of this process, the Commission also reviewed the part 45 swap data elements to determine whether any differences could be reconciled.[214] With this NPRM, and the 2020 Part 45 NPRM proposed at the same time, the Commission is proposing that the STAPD elements to be publicly disseminated would be a subset of the part 45 swap data elements required to be reported in appendix 1 to part 45. After determining the set of swap data and STAPD elements, the Commission reviewed the CDE Technical Guidance to determine which data elements the Commission could adopt according to the CDE Technical Guidance.[215]

After completing this assessment, the Commission is proposing to list the STAPD elements required to be publicly disseminated by SDRs pursuant to part 43 in appendix C. In a separate NPRM, the Commission is proposing to list the swap data elements required to be reported to SDRs pursuant to part 45 in appendix 1 to part 45. The STAPD elements in appendix C would be a harmonized subset of the swap data elements in appendix 1 to part 45.

As appendix C would contain the list of STAPD elements required to be publicly disseminated by SDRs, the Commission notes that SDRs would need additional swap data elements reported along with these STAPD elements. These swap data elements include identifying information like the reporting counterparty, unique swap identifier (''USI'') or UTI, and the submitter. However, DMO will note these swap data elements separately in the technical specifications published on *https://www.cftc.gov* to simplify the list of publicly disseminated STAPD elements in appendix C.

At the same time as the Commission is proposing to update the STAPD elements in appendix C, DMO is publishing draft technical specifications for reporting the swap data elements in appendix 1 to part 45 to SDRs and for reporting and publicly disseminating the STAPD elements in appendix C to part 43. DMO is publishing the draft technical standards on *https://www.cftc.gov* when this release is published so commenters can comment on both the NPRM and the technical standards and validation conditions. DMO will then publish the technical specifications in the **Federal Register** pursuant to the delegation of authority proposed in § 43.7(a)(1).

A discussion of the STAPD elements in appendix C required to be publicly disseminated by SDRs according to the technical standards follows below. In general, SDRs are already publicly disseminating most of this information. As the Commission is proposing that the part 43 STAPD would be a subset of the swap data elements, most of these data elements are discussed in more depth in the 2020 Part 45 NPRM.

B. Swap Transaction and Pricing Data Elements

As a preliminary matter, the Commission notes that the STAPD elements in appendix C do not include STAPD elements specific to swap product terms. The Commission is currently heavily involved in separate international efforts to introduce UPIs.[216] The Commission preliminarily expects UPIs will be available within the next two years.[217] Until the Commission designates a UPI pursuant to § 45.7, the Commission is proposing SDRs continue to accept, and reporting counterparties continue to report, the product-related data elements unique to each SDR. The Commission believes this temporary solution would have SDRs change their systems only once when UPI becomes available, instead of twice if the Commission proposes standardized product data elements in this release before UPIs are available. Once the Commission designates the UPI, the Commission would also work with SDRs on the humanly-readable short names for products that SDRs would publicly disseminate.

In addition, the Commission notes that it has endeavored to propose adopting the CDE Technical Guidance data elements as closely as possible. Where the Commission proposes adopting a CDE Technical Guidance data element, the Commission has proposed adopting the terms used in the CDE Technical Guidance. This means that some terms may be different for certain concepts. For instance, ''derivatives clearing organization'' is the Commission's term for registered entities that clear swap transactions, but the CDE Technical Guidance uses the term central counterparty.

To help clarify, DMO has proposed footnotes in the technical standards to explain these differences in at least four terms as well as provide examples and jurisdiction-specific requirements. However, the Commission has not included these footnotes in appendix C. In addition, the definitions from CDE Technical Guidance data elements included in appendix C sometimes include references to allowable values in the CDE Technical Guidance, which may not be included in appendix C but can be found in DMO's technical standards.

Finally, the CDE Technical Guidance did not harmonize many fields that would be particularly relevant for commodity and equity swap asset classes (*e.g.,* unit of measurement for commodity swaps). CPMI and IOSCO have set out governance arrangements for CDE data elements (''CDE Governance Arrangements'').[218] The CDE Governance Arrangements address both implementation and maintenance of CDE, together with their oversight. One area of the CDE Governance Arrangements includes updating the CDE Technical Guidance, including the

[214] The Commission had intended that the data elements in appendix A to part 43 would be harmonized with the data elements required to be reported to an SDR for regulatory purposes pursuant to part 45. *See* Real-Time Public Reporting of Swap Transaction Data, 77 FR 1182, 1226 (noting that it is important that the data fields for both the real-time and regulatory reporting requirements work together). However, the Commission did not require linking the two sets of data elements.

[215] The Commission has also reviewed the data elements and technical standards to determine where the Commission can adopt the standards established in the CDE Technical Guidance. *See* Committee on Payments and Market Infrastructures (''CPMI'') and the International Organization of Securities Commissions (''IOSCO''), Technical Guidance, Harmonisation of Critical OTC Derivatives Data Elements (other than UTI and UPI) (Apr. 2018) (''CDE Technical Guidance''). The CDE Technical Guidance, and the Commission's role in its development, are discussed in the 2020 Part 45 NPRM. From there, the Commission set out to establish definitions, formats, standards, allowable values, and conditions. The CDE Technical Guidance also establishes technical standards for how to report the data elements for jurisdictions to adopt. DMO is publishing draft technical standards, along with validation conditions, when this NPRM is released, so market participants can comment on both the NPRM and technical standards at the same time.

[216] *See* FSB, Governance arrangements for the UPI: Conclusions, implementation plan and next steps to establish the International Governance Body (Oct. 9, 2019), *available at https://www.fsb.org/2019/10/governance-arrangements-for-the-upi/.*

[217] *See id.* The FSB recommends that jurisdictions undertake necessary actions to implement the UPI Technical Guidance and that these take effect no later than the third quarter of 2022.

[218] *https://www.iosco.org/library/pubdocs/pdf/IOSCOPD642.pdf.*

harmonization of certain data elements and allowable values that were not included in the CDE Technical Guidance (*e.g.,* data elements related to events, and allowable values for the following data elements: Price unit of measure and Quantity unit of measure).

The Commission invites comment on any of the swap data elements proposed in appendix C. The Commission briefly discusses the STAPD elements below by category to simplify the topics for comment. To the extent any comment involves data elements adopted according to the CDE Technical Guidance, however, the Commission anticipates raising issues according to the CDE Governance Arrangements procedures to help ensure that authorities follow the established processes for doing so. In addition, the Commission anticipates updating its rules to adopt any new or updated CDE Technical Guidance.

1. Category: Clearing

The Commission is proposing to require SDRs to publicly disseminate one field related to clearing: Cleared (1). This data element is currently being publicly disseminated by SDRs according to the field in current appendix A ''Cleared or uncleared.'' The Commission requests specific comment on the following related to clearing data elements for public dissemination:

(23) Should the Commission publicly disseminate any additional data elements related to clearing, including the DCO where the swap is intended to be cleared? Please provide comment on any challenges market participants would face in reporting this information for PRSTs.

2. Category: Custom Baskets

The Commission is proposing to require SDRs to publicly disseminate a custom basket indicator.[219] The Commission preliminarily believes this data element would help market participants identify that a disseminated price is associated with a custom basket. The Commission is proposing this data element for swaps that are based on a basket of underlying assets. The Commission would like to preliminarily clarify that this data element is not a field to indicate an otherwise exotic swap.

3. Category: Events

The Commission is proposing to require SDRs to publicly disseminate four data elements related to events.[220] Reporting counterparties currently report this information to SDRs, but the Commission is proposing to further standardize how this information is reported across SDRs. The current event fields in appendix A include cancellation and correction. The Commission preliminarily believes more specific event information would help market participants understand why certain swap changes to PRSTs are being publicly disseminated.

4. Category: Notional Amounts and Quantities

The Commission is proposing to require SDRs to publicly disseminate eleven data elements related to notional amounts and quantities.[221] SDRs are currently publicly disseminating information related to notional amounts, but the Commission is proposing to further standardize how this information is reported across SDRs. The notional fields in current appendix A include notional currency and rounded notional. SDRs would continue to cap and round the notional amounts as required by § 43.4.

5. Category: Packages

The Commission is proposing to require SDRs to publicly disseminate four data elements related to package transactions.[222] The Commission requests specific comment on the following related to clearing data elements for package transactions:

(24) The 2019 Part 45 NPRM requests specific comment on whether the Commission should adopt additional data elements related to package transactions according to the CDE Technical Guidance.[223] Should the Commission also require SDRs to publicly disseminate the additional data elements related to package transactions? Do any of the Commission's proposed package transaction data elements create implementation challenges for SDRs?

6. Category: Payments

The Commission is proposing to require SDRs to publicly disseminate eight data elements related to payments.[224] SDRs are currently publicly disseminating information related to payments, but the Commission is proposing to further standardize how this information is reported across SDRs. The payment fields in current appendix A include payment frequency and reset frequency, and day count convention.

7. Category: Prices

The Commission is proposing to require reporting counterparties to report seventeen data elements related to swap prices for SDRs to publicly disseminate.[225] SDRs are currently publicly disseminating information related to prices, but the Commission is proposing to further standardize how this information is reported across SDRs. The payment fields in current appendix A include payment price, price notation, and additional price notation.

In the price category, the Commission is also proposing Post-priced swap indicator (59), in connection with the proposed rules permitting a delay for reporting PPS discussed above in section II.C.2.

8. Category: Product

The Commission is proposing to require SDRs publicly disseminate two data elements relating to products, and has included a placeholder data element for the UPI.[226] As discussed above, the Commission preliminarily believes that SDRs should continue publicly disseminating any product fields they are currently publicly disseminating until the Commission designates a UPI according to § 45.7. Current appendix A includes a similar placeholder field for UPI.

[219] This data element is Custom basket indicator (23) in appendix C.

[220] In appendix C, these data elements are: Action type (24); Event type (25); Event identifier (26); and Event timestamp (27).

[221] In appendix C, these data elements are: Notional amount (28); Notional currency (29); Call amount (31); Call currency (32); Put amount (33); Put currency (34); Notional quantity (35); Quantity frequency (36); Quantity frequency multiplier (37); Quantity unit of measure (38); and Total notional quantity (39).

[222] In appendix C, these data elements are: Package identifier (40); Package transaction price (41); Package transaction price currency (42); and Package transaction price notation (43).

[223] In the CDE Technical Guidance, the additional package data elements are: Package transaction spread (2.93); Package transaction spread currency (2.94); and Package transaction spread notation (2.95).

[224] In appendix C, these data elements are: Day count convention (44); Floating rate reset frequency period (46); Floating rate reset frequency period multiplier (47); Other payment type (48); Other payment amount (49); Other payment currency (50); Payment frequency period (54); and Payment frequency period multiplier (55).

[225] In appendix C, these data elements are: Exchange rate (56); Exchange rate basis (57); Fixed rate (58); Post-priced swap indicator (59); Price (60); Price currency (61); Price notation (62); Price unit of measure (63); Spread (64); Spread currency (65); Spread notation (66); Strike price (67); Strike price currency/currency pair (68); Strike price notation (69); Option premium amount (70); Option premium currency (71); and First exercise date (73).

[226] In appendix C, these data elements are: Index factor (76); Embedded option type (77); and Unique product identifier (78).

9. Category: Settlement

The Commission is proposing to require SDRs to publicly disseminate one field related to settlement: Settlement currency (80). Current appendix A contains a field for settlement currency.

10. Category: Transaction-Related

The Commission is proposing to require SDRs to publicly disseminate seven transaction-related fields.[227] The transaction-related fields in current appendix A include execution timestamp, indication of other price affecting term, block trade indicator, execution venue, and start and end date. The Commission is proposing one new indicator, Prime brokerage transaction indicator, in connection with the proposed rules for reporting mirror swaps discussed above in section II.C.4.

In connection with the data element for Execution timestamp (86), the Commission reminds reporting counterparties that execution timestamp is the date and time that the swap was executed, *not* the date and time that the swap was recorded in a computer system (*e.g.,* a trade capture system) or transmitted to an SDR. The Commission is concerned that some market participants incorrectly report an execution timestamp that indicates when a swap executed orally was recorded in market participants' computer systems, regardless of whether any time has passed since swap execution. Similarly, some market participants incorrectly report an execution timestamp that indicates when a swap executed electronically was transmitted to an SDR, regardless of whether any time has passed between execution and transmission. Reporting of incorrect execution timestamps in instances such as these violates the reporting requirements of part 43.

Request for Comment

The Commission requests comment on all aspects of the proposed STAPD elements in appendix C and DMO's proposed technical standards and validation conditions. The Commission also requests specific comment on the following:

(25) In the 2012 RTR Final Rule, the Commission stated that public dissemination was not ''presently required'' for among other types, swaps generated by portfolio compression exercises that would not provide price discovery benefits to the public. Since 2012, market participants have engaged in more complex activities, with some similarities to compression exercises, which are generally referred to as ''risk reduction services.'' The Commission understands that parties that facilitate risk reduction services, including SEFs, have reported under part 43 any new swaps that are created as the result of their risk-reduction services. Should the Commission require swaps resulting from risk reduction services be indicated using a unique identifier or flag on the real-time public tape to indicate the price may not reflect current market prices?

IV. Compliance Date

Market participants raised questions about the compliance schedules for the Commission's proposed reporting rule amendments in response to the Roadmap solicitations for public comment. Commenters raised various concerns about the compliance schedule. For instance, the SDRs requested that system updates that would result from any rule changes happen all at once.[228] Other suggested phasing in any SDR obligations before requiring reporting counterparty changes.[229] Multiple market participants requested that all rulemakings take place simultaneously to inform one another,[230] and that DMO wait for CPMI–IOSCO to publish the CDE fields before undertaking the rulemakings.[231]

One commenter noted the dependencies between different actors in changing systems and suggested that compliance dates take that into account.[232] Commenters cautioned against artificial deadlines,[233] requested avoiding compliance dates at the end of the year during holidays and code freezes,[234] and requested that the Commission consider deadlines for changes in foreign jurisdictions when setting compliance dates.[235]

The Commission understands that market participants will need a sufficient implementation period to accommodate the changes proposed in the three NPRMs. The Commission therefore expects that the compliance date for the rules that the Commission adopts as a result of each of the Roadmap NPRMs would be at least one year from the date that the last one of such final rulemakings is published in the **Federal Register**.

Request for Comment

The Commission requests comment on all aspects of a one year compliance date.

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities.[236] The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on small entities in accordance with the RFA.[237] The amendments to part 43 proposed herein would have a direct effect on the operations of DCMs, DCOs, MSPs, prime brokers,[238] reporting counterparties, SDs, SDRs, and SEFs. The Commission has previously certified that DCMs,[239] DCOs,[240] MSPs,[241] SDs,[242] SDRs,[243] and SEFs[244] are not small entities for purpose of the RFA.

Various proposed amendments to part 43 would have a direct impact on all reporting counterparties. These reporting counterparties may include SDs, MSPs, DCOs, and non-SD/MSP/DCO counterparties. Regarding whether non-SD/MSP/DCO reporting counterparties are small entities for RFA purposes, the Commission notes that section 2(e) of the CEA prohibits a person from entering into a swap unless the person is an eligible contract participant (''ECP''), except for swaps executed on or pursuant to the rules of

[227] In appendix C, these data elements are: Non-standardized term indicator (82); Block trade election indicator (83); Effective date (84); Expiration date (85); Execution timestamp (86); Platform identifier (88); and Prime brokerage transaction indicator (90).

[228] Joint SDR Letter at 12.

[229] Letter from Chatham Financial (Aug. 21, 2017) at 5–6; Joint NRECA–APPA Letter at 3.

[230] Joint SDR Letter at 1; Letter from GFXD of the GFMA at 5; Joint ISDA–SIFMA Letter at 2–3; Letter from LCH at 2.

[231] Joint ISDA–SIFMA Letter at 2–3.

[232] Joint SDR Letter at 12.

[233] Letter from Chatham at 5.

[234] Joint SDR Letter at 12.

[235] *Id.*

[236] *See* 5 U.S.C. 601 *et seq.*

[237] *See* Policy Statement and Establishment of ''Small Entities'' for Purposes of the Regulatory Flexibility Act, 47 FR 18618 (Apr. 30, 1982) (''1982 RFA Release'').

[238] The Commission understands that all prime brokers currently acting as such in connection with swaps are SDs. Consequently, the RFA analysis applicable to SDs applies equally to prime brokers.

[239] *See* 1982 RFA Release.

[240] The Commission has previously certified that DCOs are not small entities for purposes of the RFA. *See* DCO General Provisions and Core Principles, 76 FR 69334, 69428 (Nov. 8, 2011).

[241] *See* SD and MSP Recordkeeping, Reporting, and Duties Rules, 77 FR 20128, 20194 (Apr. 3, 2012) (basing determination in part on minimum capital requirements).

[242] *See id.*

[243] *See* Swap Data Repositories, 75 FR 80898, 80926 (Dec. 23, 2010) (basing determination in part on the central role of SDRs in swaps reporting regime, and on the financial resource obligations imposed on SDRs).

[244] *See* Core Principles and Other Requirements for SEFs, 78 FR 33476, 33548 (June 4, 2013).

a DCM.[245] The Commission has previously certified that ECPs are not small entities for purposes of the RFA.[246]

The Commission has analyzed swap data reported to each SDR[247] across all five asset classes to determine the number and identities of non-SD/MSP/DCOs that are reporting counterparties to swaps under the Commission's jurisdiction. A recent Commission staff review of swap data, including swaps executed on or pursuant to the rules of a DCM, identified nearly 1,600 non-SD/MSP/DCO reporting counterparties. Based on its review of publicly available data, the Commission believes that the overwhelming majority of these non-SD/MSP/DCO reporting counterparties are either ECPs or do not meet the definition of ''small entity' established in the RFA. Accordingly, the Commission does not believe the proposed rule would affect a substantial number of small entities.

Based on the above analysis, the Commission does not believe that this proposal will have a significant economic impact on a substantial number of small entities. Therefore, the Chairman, on behalf of the Commission, pursuant to 5 U.S.C. 605(b), hereby certifies that the proposed rules will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The PRA of 1995[248] imposes certain requirements on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information, as defined by the PRA. This proposed rulemaking would result in a collection of information within the meaning of the PRA, as discussed below. The proposed rulemaking contains a collection of information for which the Commission has previously received a control number from the Office of Management and Budget (''OMB''): OMB Control Number 3038–0070 (relating to real-time STAPD).

The Commission is proposing to amend information collection 3038–0070 to accommodate newly proposed and revised information collection requirements for swap market participants and SDRs that require approval from OMB under the PRA. The amendments described herein are expected to modify the existing annual burden for complying with certain requirements of part 43.

The Commission therefore is submitting this proposal to the OMB for its review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. Responses to this collection of information would be mandatory. The Commission will protect proprietary information according to the FOIA and 17 CFR 145, ''Commission Records and Information.'' In addition, section 8(a)(1) of the CEA strictly prohibits the Commission, unless specifically authorized by the CEA, from making public ''data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.''[249] The Commission is also required to protect certain information contained in a government system of records according to the Privacy Act of 1974.[250]

1. STAPD Reports to SDRs

The Commission is proposing to amend § 43.3, which requires SEFs, DCMs, and reporting counterparties to report data to SDRs when entering into new swaps, or making certain changes to swaps, for SDRs to publicly disseminate. Existing § 43.3 requires reporting counterparties to send swap reports to SDRs as soon as technologically practicable after execution. The Commission is proposing to amend § 43.3(a)(4) to allow reporting counterparties more time to report PPS to SDRs. Currently, some entities report PPS using a placeholder price, and then send a swap report later amending the price. Those entities would experience a reduction in the number of swap reports they are required to send pursuant to § 43.3 under the proposal. The Commission estimates 50 SD/MSP reporting counterparties would reduce the number of PPS reports they report to SDRs by 100 reports per respondent annually, or 5,000 reports in the aggregate for an aggregate cost burden reduction of $24,197.

The Commission is also proposing to amend § 43.3 to establish new requirements for reporting prime brokerage swaps in § 43.3(a)(6). The proposed rules would establish that ''mirror swaps'' would not need to be publicly disseminated by SDRs. Reporting counterparties would continue to report mirror swaps to SDRs pursuant to part 45, but the amendment to § 43.3 would reduce the number of reports SDRs would be required to publicly disseminate according to § 43.4. The amendment to the requirement for SDRs in § 43.4 is discussed in the next section below.

The Commission is also proposing to create a new requirement in § 43.3(a)(5) for DCOs to report STAPD for clearing swaps that are PRSTs. The proposed change would increase the burden for no more than 14 DCOs that would need to report PRSTs, but would not affect the burden for the majority of 1,732 reporting counterparties required to report data ASATP after execution. As a result, the Commission is not proposing to amend the estimate for § 43.3 based on this change.

Existing § 43.3(h) requires timestamping by multiple entities. Existing § 43.4(h)(1) requires registered entities, SDs, and MSPs to timestamp real-time swap reports with the time they receive the data from counterparties, as applicable, and the time at which they transmit the report to an SDR. Registered entities, SDs, and MSPs then send these timestamps to the SDR. Existing § 43.3(h)(2) requires SDRs to timestamp the swap reports they receive from SEFs, DCMs, and reporting parties, and then timestamp the report with the time they publicly disseminate it. SDRs then place these timestamps on the reports they publicly disseminate. Existing § 43.3(h)(3) requires SDs and MSPs have to timestamp all off-facility swaps they report to SDRs. SDs and MSPs then report these timestamps to SDRs.[251]

Removing § 43.3(h)(1) would reduce the amount of time SDs, MSPs, and registered entities spend reporting swap reports to SDRs, but would not amend the number of reports they send. Removing § 43.3(h)(2) would reduce the

[245] *See* 7 U.S.C. 2(e).

[246] *See* Opting Out of Segregation, 66 FR 20740, 20743 (Apr. 25, 2001). The Commission also notes that this determination was based on the definition of ECP as provided in the Commodity Futures Modernization Act of 2000. The Dodd-Frank Act amended the definition of ECP by modifying the threshold for individuals to qualify as ECPs, changing an individual who has total assets in an amount in excess of to an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of. Therefore, the threshold for ECP status is currently more restrictive than it was when the Commission certified that ECPs are not small entities for RFA purposes, meaning that there are likely fewer entities that could qualify as ECPs today than could qualify when the Commission first made the determination.

[247] The sample data sets varied across SDRs and asset classes based on relative trade volumes. The sample represents data available to the Commission for swaps executed over a period of one month. These sample data sets captured 2,551,907 FX swaps, 603,864 equity swaps, 357,851 other commodity swaps, 276,052 interest rate swaps, and 98,145 credit swaps.

[248] *See* 44 U.S.C. 3501.

[249] 7 U.S.C. 12(a)(1).

[250] 5 U.S.C. 552a.

[251] Current § 43.3(h)(4) requires all entities have recordkeeping requirements with respect to these timestamps. The Commission is proposing to eliminate the recordkeeping requirements in § 43.3(h)(4). This would result in the removal of the recordkeeping burden from collection 3038–0070, which is currently 5,854 hours in the aggregate.

amount of time SDRs spend publicly disseminating swap reports, but would not amend the number of reports they send. Removing § 43.3(h)(3) would reduce the amount of time SDs and MSPs spend reporting off-facility swaps to SDRs, but would not reduce the amount of reports they send. Finally, removing § 43.3(h)(4) would remove the recordkeeping burden for these entities. As shown in Appendix A, this would remove the current recordkeeping burden of 5,854 hours from the collection.

2. STAPD Reports Disseminated to the Public by SDRs

As discussed above, existing § 43.3 requires reporting counterparties to send swap reports to SDRs as soon as technologically practicable after execution. The Commission is proposing to amend § 43.3 to establish new requirements for reporting prime brokerage swaps in § 43.3(a)(6). The proposed rules would establish that ''mirror swaps'' would not need to be publicly disseminated by SDRs. Reporting counterparties would continue to report mirror swaps to SDRs pursuant to part 45, but the amendment to § 43.3 would reduce the number of reports SDRs would be required to publicly disseminate according to § 43.4. The Commission estimates that the amendments would reduce the number of mirror swaps SDRs would need to publicly disseminate by 100 reports per each SDR, or 300 reports in the aggregate, which would reduce the cost burden by $1,451 in the aggregate.

The estimated updated reporting burden total for real-time public reporting would be as follows:

Estimated number of respondents: 1,732.

Estimated number of reports per respondent: 20,747.

Average number of hours per report: .07.

Estimated gross annual reporting burden: 1,206,508.

Request for Comment

The Commission invites the public and other Federal agencies to comment on any aspect of the proposed information collection requirements discussed above. The Commission will consider public comments on this proposed collection of information in:

1. Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

2. evaluating the accuracy of the estimated burden of the proposed collection of information, including the degree to which the methodology and the assumptions that the Commission employed were valid;

3. enhancing the quality, utility, and clarity of the information proposed to be collected; and

4. reducing the burden of the proposed information collection requirements on registered entities, including through the use of appropriate automated, electronic, mechanical, or other technological information collection techniques, *e.g.,* permitting electronic submission of responses.

Copies of the submission from the Commission to OMB are available from the CFTC Clearance Officer, 1155 21st Street NW, Washington, DC 20581, (202) 418–5160 or from *http://RegInfo.gov.* Organizations and individuals desiring to submit comments on the proposed information collection requirements should send those comments to:

- The Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Desk Officer of the Commodity Futures Trading Commission;
- (202) 395–6566 (fax); or
- *OIRAsubmissions@omb.eop.gov* (email).

Please provide the Commission with a copy of submitted comments so that all comments can be summarized and addressed in the final rulemaking, and please refer to the **ADDRESSES** section of this rulemaking for instructions on submitting comments to the Commission. OMB is required to make a decision concerning the proposed information collection requirements between 30 and 60 days after publication of this Release in the **Federal Register**. Therefore, a comment to OMB is best assured of receiving full consideration if OMB receives it within 30 calendar days of publication of this Release. Nothing in the foregoing affects the deadline enumerated above for public comment to the Commission on the proposed rules.

C. Cost-Benefit Considerations

1. Statutory and Regulatory Background

Section 15(a) [252] of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors.

In this release, the Commission is proposing both substantive and non-substantive revisions and additions to existing regulations in part 43. Together, these proposed revisions and additions are intended to improve real-time public reporting for reporting counterparties, SEFs, DCMs, SDRs, and market participants that use real-time public data. The non-substantive amendments discussed above in this release do not have cost-benefit impact and are not discussed in this section.

Many of the proposed rule changes will likely affect a wide variety of proprietary reporting systems developed by SDRs and reporting entities. In many cases, SDRs and other industry participants are in the best position to estimate computer programming costs of changing the reporting requirements. Hence, while the Commission can provide broad ranges of estimates of the programming costs associated with the proposed rule changes, the Commission looks forward to receiving comments that will help refine those numbers. Regarding changes which require technical updates to reporting systems, where significant, CFTC staff estimated the hourly wages market participants will likely pay software developers to implement each change to be between $47 and $100 per hour.[253] Relevant amendments below will list a low-to-high range of potential cost as determined by the number of developer hours estimated by technical subject

[252] 7 U.S.C. 19(a).

[253] Hourly wage rates came from the Software Developers and Programmers category of the May 2018 National Occupational Employment and Wage Estimates Report produced by the U.S. Bureau of Labor Statistics, *available at https://www.bls.gov/oes/current/oes_nat.htm.* The 25th percentile was used for the low range and the 90th percentile was used for the upper range ($36.07 and $76.78, respectively). Each number was multiplied by an adjustment factor of 1.3 for overhead and benefits (rounded to the nearest whole dollar) which is in line with adjustment factors the CFTC has used for similar purposes in other final rules adopted under the Dodd-Frank Act. *See, e.g.,* 77 FR at 2173 (using an adjustment factor of 1.3 for overhead and other benefits). These estimates are intended to capture and reflect U.S. developer hourly rates market participants are likely to pay when complying with the proposed changes. We recognize that individual entities may, based on their circumstances, incur costs substantially greater or less than the estimated averages and encourage commenters to share relevant cost information if it differs from the numbers reported here.

matter experts (''SMEs'') in the Commission's Office of Data and Technology.

Quantifying other costs and benefits, such as those resulting from changes in price transparency from a rule change, are inherently harder to measure. Such effects will be discussed qualitatively when quantitative measures are difficult to obtain. In addition, quantification of effects relative to current market practice may not be fully representative of future activity if participants adjust their trading behavior in response to rule updates. The Commission therefore specifically requests comment on the costs associated with this proposed rulemaking to help the Commission quantify such costs in the final rulemaking.

The Commission notes that the discussion in this section is based on the understanding that swap markets often extend across geographical regions. Many swap transactions involving U.S. firms occur across international borders; some Commission registrants are even headquartered outside of the United States, with the most active participants often conducting operations both within and outside the United States. Where the Commission does not specifically refer to matters of location, the discussion of costs and benefits refers to the proposed rules' effects on all swaps activity, whether by virtue of the activity's physical location in the United States or by virtue of the activity's connection with or effect on U.S. commerce under CEA section 2(i).[254]

2. Considerations of the Costs and Benefits of the Commission's Action

a. § 43.3—Method and Timing for Real-Time Public Reporting [255]

i. § 43.3(a)(4)—Post-Priced Swaps

The Commission is proposing § 43.3(a)(4) to establish requirements for reporting PPSs, which the Commission proposes to define as off-facility swaps for which the price has not been determined at the time of execution. The Commission understands that PPSs can arise in a variety of settings. One possibility is for the price of the swap to be tied to a reference price that is not yet determined at the time of the trade; examples of this could include the daily settlement price of a stock index or crude oil futures or a benchmark such as the Argus WTI Midland price assessment.[256] In this case, the PPS would only have a defined price once the reference price is determined. A second possibility is for the price of a PPS to be determined only after the dealing counterparty is able to hedge its exposure to the PPS. In this case, the price of the PPS would only be fixed after the SD has completed its hedge.

The Commission is not able to clearly identify which swaps would be classified as PPSs under the new rules.[257] This makes an accurate estimate of how many individual swaps or counterparties the proposed rule change would impact difficult to obtain. Under the updated list of STAPD elements in appendix C, reporting parties would be required to report that a swap is a PPS to allow the Commission and the public to get a clearer view of PPS activity.[258]

As discussed above in section II.C.2., proposed § 43.3(a)(4)(i) would permit reporting counterparties to delay reporting that are identified as PPSs to SDRs until the earlier of: (i) The price being determined; and (ii) 11:59:59 p.m. eastern time on the execution date. For Variable Terms Swaps for which the price is known at execution but some other term is left for future determination (*e.g.,* quantity), reporting parties remain obligated to report the swap ASATP after execution, even absent the as-of-yet undetermined terms.

Baseline: The current rule requires reporting parties to report all swaps ASATP after execution; this baseline does not contain an exception for Variable Terms Swaps, a category of swaps which includes PPSs. However, based on discussions with market participants, many PPSs and other Variable Terms Swaps are not currently reported until all terms have been determined and those that are reported are difficult to identify. The Commission believes that may be due in some part to market participants' lack of awareness that the ASATP standard applies to all Variable Terms Swaps, or interprets execution in a different way than the Commission.

Benefits: This rule would establish a bright-line standard for when a PPS and other Variable Terms Swaps needs to be reported for public dissemination, in lieu of the reporting variation that, as described above, appears to be current practice. By explicitly describing reporting obligations for PPSs, as well as the other Variable Terms Swaps, the rule would create consistency in reporting, reduce uncertainty about obligations, and create a more level playing field for reporting entities. This would make the real-time public data more informative to traders.

Another benefit of allowing delayed reporting of PPSs is that it would permit parties to hedge the positions they acquire in a more cost-effective way. For example, if a client asks an SD to take the long side of a large swap, the SD may be able to hedge that position with less price impact if other traders are unaware of the SD's hedging need. This ability to hedge while mitigating price impact can often translate to better pricing for the client. Thus, the Commission anticipates proposed § 43.3(a)(4) would decrease SDs' hedging costs, especially for large or non-standardized trades, improve customer pricing, and increase those clients' willingness to take positions.

Costs: Delayed reporting of PPSs may reduce the amount of information available to market participants as a whole and, in that sense, frustrate the objective of price transparency. In particular, other market participants would have a less-precise estimate of intraday trading volume in real-time, which can introduce an information asymmetry. Another cost is that proposed § 43.3(a)(4) might encourage

[254] *See* 7 U.S.C. 2(i). CEA section 2(i) limits the applicability of the CEA provisions enacted by the Dodd-Frank Act, and Commission regulations promulgated under those provisions, to activities within the U.S., unless the activities have a direct and significant connection with activities in, or effect on, commerce of the U.S.; or contravene such rules or regulations as the Commission may prescribe or promulgate as are necessary or appropriate to prevent the evasion of any provision of the CEA enacted by the Dodd-Frank Act. Application of section 2(i)(1) to the existing part 43 regulations with respect to SDs/MSPs and non-SD/MSP counterparties is discussed in the Commission's Interpretive Guidance and Policy Statement Regarding Compliance With Certain Swap Regulations, 78 FR 45292 (July 26, 2013).

[255] The proposed amendments to §§ 43.1 and 43.2 do not have any cost-benefit impact.

[256] This is similar to ''trade at settlement'' trades in futures markets which trade at prices that represent the settlement price or a spread to the settlement price (*e.g.,* a TAS plus one tick); once the settlement price is defined, the trade is then marked with the corresponding trade price. The Commission believes that this type of post-priced swap is especially common for equity swaps, where traders often need to match the settlement price of a given index.

[257] There are a few alternatives to identify the set of swaps that would be impacted by proposed § 43.3(a)(4). First, it might be possible to identify PPSs using part 43 data by searching the data to determine how many swaps are reported with a missing price with a reporting time close to execution time. However, the Commission understands that not all reporting parties report their PPSs close in time to the execution of the PPS; instead, these counterparties wait until a price is determined. A second option might be to assume swaps with a price but a large difference between reporting time and execution time are PPSs; however, this methodology might include swaps with other non-price varying terms such as quantity. Finally, a more involved check would combine parts 43 and 45 data to check for differences in the reported price. Since all of these options are potentially over- or under-inclusive, the Commission is not attempting to identify for this discussion which swaps in the current data would be classified as PPSs.

[258] The proposed STAPD element for ''post-priced swap indicator'' is discussed above in section III.

traders to trade more PPSs, and fewer swaps for which the price is known at execution,[259] further reducing transparency as fewer trades are reported ASATP after execution.

The Commission is proposing regulation § 43.3(a)(4) to specify the requirements for how PPSs are to be reported. Notwithstanding the potential incremental costs identified above, the Commission preliminarily believes this change is warranted in light of the anticipated benefits.

Request for Comment

The Commission requests comment on its consideration of the costs and benefits of proposed § 43.3(a)(4), including regarding issues and questions specifically identified below. Please provide data, statistics, or other supporting information for positions asserted.

(26) Are there additional costs or benefits that the Commission should consider? If so, please identify and, where quantifiable, provide data or other information to assist the Commission in quantifying them.

(27) Are there alternatives that would generate greater benefits and/or lower costs?

(28) What percentage of PPSs have their prices determined by midnight on the date of execution (by asset class and overall)? What percentage of Variable Terms Swaps have their prices determined by midnight on the date of execution (by asset class and overall)? Do market participants have trouble reporting, and do SDRs have difficulty disseminating, PPS trades, because the placeholder terms of the swaps (including, but not limited to, placeholder values such as zero or blank fields) are inconsistent with SDRs' allowable values?

(29) Do market participants have an estimate for the number of swaps that may shift to PPS if the Commission grants PPS a reporting delay?

ii. § 43.3(a)(5)—Clearing Swaps

The Commission is proposing § 43.3(a)(5) to add DCOs to the reporting counterparty hierarchy for clearing swaps that are publicly reportable. DCOs are not typically the entities that are required to report information under part 43, since swaps associated with the clearing process (*e.g.,* novations) have already been reported in some form; for example, SEFs, DCMs, and reporting counterparties report the original, market-facing swap to SDRs for public dissemination and then send that swap to the DCO for clearing. This is inconsistent with the part 45 reporting hierarchy that the Commission is concerned introduces some confusion. Proposed § 43.3(a)(5) describes the limited, specific cases when a DCO would be required to submit a swap for public dissemination (*e.g.,* when executing swaps to hedge the risk resulting from a default of a clearing member). While the number of such cases is small, the reporting responsibility in those cases is left unspecified under current rules.

Baseline: The rules currently do not expressly require DCOs to submit any swap records to an SDR for public dissemination.

Benefits: Proposed § 43.3(a)(5) will require DCOs to report swaps for public dissemination if the DCO is a counterparty to the initial swap, and the swap falls within the definition of a PRST. In cases where these swaps are not currently being reported under part 43, perhaps due to ambiguity over the reporting hierarchy, this rule change is likely to increase market transparency. Related, more clearly defining the reporting responsibilities for DCOs would improve reporting consistency and reporting validation.

Costs: The Commission expects that proposed § 43.3(a)(5) would impose minor additional costs on DCOs because DCOs would now be the reporting party for a certain category of PRSTs. As a preliminary matter, the Commission believes that the proposed amendment will affect a small number of swaps. Further, while the Commission currently lacks information to estimate the direct cost incurred here by the DCOs, it expects the incremental per-swap reporting cost to be very small because DCOs have already incurred most of the fixed set-up costs of reporting. In addition, two DCOs report to affiliated SDRs, which should mitigate the cost of reporting PRSTs. For DCOs that are not affiliated with SDRs, the cost may be higher.

The Commission is proposing § 43.3(a)(5) to add DCOs to the required reporting hierarchy for clearing swaps. Notwithstanding the anticipated incremental costs identified above, the Commission preliminarily believes this change is warranted in light of the anticipated benefits.

Request for Comment

The Commission requests comment on its consideration of the costs and benefits of proposed § 43.3(a)(5), including regarding issues and questions specifically identified below. Please provide data, statistics, or other supporting information for positions asserted.

(30) Are there additional costs or benefits that the Commission should consider? If so, please identify and, where quantifiable, provide data or other information to assist the Commission in quantifying them.

(31) Are there alternatives that would generate greater benefits and/or lower costs?

(32) Are there additional situations in which a DCO would be the reporting counterparty to a PRST that the Commission has not considered? Please specify any scenarios, along with the frequency with which they occur. Would these scenarios result in additional costs for DCOs if the Commission were to require DCOs to be the reporting counterparties?

(33) What are the costs of requiring DCOs to report clearing swaps that are PRSTs? Please specify all expected one-time and ongoing compliance costs. What are the reporting costs faced by the parties that are reporting these trades under the current regulations?

iii. § 43.3(a)(6)—Mirror Swaps

The Commission is proposing § 43.3(a)(6) to establish requirements for reporting a certain subset of prime brokerage swaps. These prime brokerage swaps result from an agency agreement between a prime broker and a customer, pursuant to which a prime broker agrees to serve as a swap counterparty to the customer on terms negotiated by the customer with third parties, often referred to as executing brokers (or executing dealers). This arrangement is possible, provided that the terms of the swap fall within acceptable parameters set forth in the agency agreement.

To illustrate proposed § 43.3(a)(6) and consider its costs and benefits, the Commission will focus on what it understands to be the simplest type of prime brokerage swap.[260] In that structure, once the customer negotiates with an executing broker the terms of a

[259] For instance, because proposed § 43.3(a)(4) permits delaying reporting, it could create an incentive for an SDs' PPS counterparties to seek to enter into swaps that they know will take some time for the SD to hedge (*e.g.,* swaps in larger size than they ordinarily would seek to execute) so that such counterparties can receive the benefit of the delayed reporting permitted by proposed § 43.3(a)(4).

[260] The Commission understands that there are many different prime brokerage swap transaction structures. However, the Commission has limited the discussion in this Cost-Benefit Considerations section to one representative type because it is impractical to consider the costs and benefits of each structure in a set of an unlimited number of transaction structures. The cost-benefit considerations discussion may therefore fail to account for some costs associated with all covered prime-brokerage transactions. The Commission requests comment below on the costs the Commission may need to account for as a result of prime brokerage swap transaction structures other than the one considered for this analysis.

swap that fits within the parameters set forth in the agency agreement (the ''pricing event''), two swaps are created: a swap between the executing broker and the prime broker (the ''trigger swap'') and a swap with offsetting economic terms between the prime broker and the customer (the ''mirror swap'').[261]

Because the prime broker is a counterparty to both a trigger swap and a mirror swap, it has two offsetting exposures that should leave it market risk neutral. The prime broker does, however, take on counterparty credit risk from both the client and the executing broker.

The current part 43 rules and, in particular, the definition in § 43.2 of PRST, do not expressly address mirror swaps or trigger swaps. As a result, the Commission is concerned that this reporting is inconsistent today. In particular, the Commission is concerned that mirror swaps are currently under-reported because market participants—acting on the belief that reporting mirror swap terms duplicative of those already reported for the corresponding trigger swap would distort price discovery,[262] and informed by CFTC Letter No. 12–53, discussed above in section II.C.4.[263]—inconsistently report them. Because there is no indicator for which swaps represent trigger or mirror swaps in the public reporting requirements, the Commission cannot identify how common these swaps may be. More generally, potential current non-reporting of mirror swaps makes it difficult to quantify how many swap trades and open positions result from prime brokerage activity.[264] These current issues introduce difficulties in using part 43 information for real-time analysis or longer historical studies of swaps market activity.

Pursuant to proposed § 43.3(a)(6)(i), an SDR would not need to publicly disseminate a mirror swap, but the swap would still be reported to an SDR pursuant to part 45; in contrast, the trigger swap would both publicly disseminated by an SDR pursuant to part 43 and reported to an SDR pursuant to part 45. This would result in different reporting regimes for mirror swaps than for other swaps used to hedge exposure.

Baseline: The current rules do not specifically address mirror swaps or prime brokerage transactions. Pursuant to the current regulations, real-time public reporting is required for both trigger swaps and mirror swaps. To the extent some reporting counterparties are not in compliance, cost and benefits relative to the status quo may be different than when measured against the regulatory baseline. This different cost/benefit profile is considered as well.

Benefits: Proposed § 43.3(a)(6) would help market participants by explicitly providing that mirror swaps are not publicly reportable, provided that the related trigger swaps are reported pursuant to parts 43 and 45. The changes would reduce the current burden on regulatory-compliant prime brokers and other parties to report mirror swaps, an incremental benefit that market participants who currently do not report these swaps would not realize.

The Commission preliminarily believes that proposed § 43.3(a)(6) also would benefit market participants who monitor the public tape (likely some of the most active participants) by preventing duplicative mirror swaps that reflect the same economic terms as trigger swaps.[265] Inclusion of such duplicative records can create a false impression of market volume at a particular price.

Costs: The Commission recognizes that, in the plain vanilla, trigger swap-mirror swap structure described above, the prime broker establishes two open positions: one between it and the executing broker and one with offsetting economic terms facing the client. This subjects the prime broker to counterparty risk from both counterparties but not to market risk.[266] By omitting mirror swaps from the public tape, the proposed rule change would increase the number of swaps that affect the credit risk position of market participants but are not required to be publicly reported pursuant to part 43, thus frustrating the objective of price transparency.[267]

While the Commission's analysis has focused on plain vanilla mirror swaps in this section, it notes that some mirror swaps do not contain the same economic terms as the trigger swap. There may be mirror swaps in which there are multiple trades that comprise the mirror side for a single trigger swap. In these cases, the public will not learn about the multiple mirror swaps which have an aggregate notional amount that is equal to the trigger swap. This, as with other examples, has the potential to reduce the level of transparency for a specific subset of trade activity, though the trade activity is in part duplicative of other swaps visible to the market.

Furthermore, eliminating reporting for mirror swaps could incentivize the use of more complex mirror swaps to avoid public reporting, increasing the possibility of more complicated, risky swaps being created. The Commission expects such risk to be minimal, however, given that all swaps associated with prime brokerage transactions will still be reported to SDRs pursuant to part 45.

The Commission is proposing § 43.3(a)(6) to establish requirements for reporting prime brokerage swaps. Notwithstanding the anticipated incremental costs, the Commission preliminarily believes this change is warranted in light of the anticipated benefits.

Request for Comment

The Commission requests comment on its consideration of the costs and benefits of proposed § 43.3(a)(6), including regarding issues and questions specifically identified below. Please provide data, statistics, or other supporting information for positions asserted.

(34) Are there additional costs or benefits that the Commission should

[261] This mirror swap includes an adjustment resulting from the prime brokerage servicing fees.

[262] This would be the case if all the primary economic terms are the same for, for instance, a trigger swap and a single mirror swap. By reporting both the mirror and the trigger swap, market participants may assume that the volume of price-forming trade activity is higher than it actually is.

[263] As discussed above in section II.C.4., CFTC Letter No. 12–53 provided no-action relief for reporting counterparties from the obligation to report mirror swaps to SDRs.

[264] The STAPD elements in appendix C would include a new data element ''Prime brokerage transaction identifier'' and would require the reporting party to include the USI or UTI of the trigger swap in the ''prior USI'' or ''prior UTI'' fields of each mirror swap.

[265] In the case of partial reverse give-ups, the mirror swaps may reflect different notional amounts than the trigger swaps. However, as discussed above, the Commission is limiting the discussion in this section to the plain vanilla, trigger swap-mirror swap structure illustrated above, which does not involve partial reverse give-ups.

[266] Although the execution of the trigger swap results in a change in the market risk position between the prime broker and the executing broker, and the execution of the mirror swap results in a change in the market risk position between the prime broker and its customer, the prime broker does not have any net market exposure (because its market position is flat). However, because the market risk position between the prime broker and each of its counterparties changed, the trigger swap and mirror swap both are currently PRSTs.

[267] For additional information regarding swaps that affect the credit risk position of market participants but are not required to be publicly reported, *see:* Paragraph (2) of the definition of a PRST in § 43.2 gives two examples of executed swaps that do not fall within the definition of a publicly reportable swap: (i) Internal swaps between 100% subsidiaries of the same parent entity; and (ii) swaps resulting from portfolio compression exercises. Paragraph (3) of the definition of a PRST in § 43.2 states that those examples represent swaps that are not at arm's length and thus are not [PRSTs], notwithstanding that they do result in a corresponding change in the market risk position between two parties.

consider? If so, please identify and, where quantifiable, provide data or other information to assist the Commission in quantifying them.

(35) Are there alternatives that would generate greater benefits and/or lower costs?

(36) Can the double-reporting concerns be addressed by the alternative of adding an additional reporting field to indicate if a swap is a trigger or a mirror? If so, what are costs and benefits of this alternative approach relative to what is being proposed?

(37) How common are mirror swaps? What percentage are ''plain vanilla'' as characterized above as compared to more complex scenarios? What would the cost-benefit differences be between plain vanilla and non-plain vanilla mirror swaps?

iv. § 43.3(c)—Availability of Swap Transaction and Pricing Data to the Public

Current § 43.3(d)(1) and (2) (which would be relocated to § 43.3(c)(1) and (2)) specify the format in which SDRs must make STAPD available to the public; in addition, current rules require that the disseminated data must be made ''freely available and readily accessible'' to the public. Substantively, the Commission is proposing to amend these requirements by specifying that SDRs shall make such data available for at least one year after dissemination, and provide instructions on how to download, save, and search the data. While current § 43.3(d) is silent on how long SDRs must maintain and provide the public access to swap data and does not require SDRs to provide instructions on how to download, save, and search the data, for baseline purposes of this cost-benefit consideration the Commission, as noted above in section II.C.7., understands a one-year time frame is current practice for at least a majority of SDRs. To the extent the baseline might be less than one year by an SDR, proposed § 43.3(c)(1) would increase the transparency of swap data to the public. Finally, in practice, the cost of the change is expected to be negligible, because SDRs are already making the public reports available for more than one year.

The Commission requests comment on its consideration of the costs and benefits of proposed § 43.3(c). Please provide data, statistics, or other supporting information for positions asserted.

v. § 43.3(d)—Data Reported to SDRs

The Commission is proposing § 43.3(d), which would require reporting counterparties, SEFs, and DCMs, when reporting STAPD to an SDR, to: (i) Use the technical standards as instructed by the Commission; (ii) satisfy SDR validation procedures; and (iii) use the facilities, methods, or data standards provided or required by the SDR.

The standardization of STAPD reported to and publicly disseminated by SDRs has improved over recent years at each SDR. However, the Commission believes market participants would now benefit from having publicly disseminated STAPD standardized across SDRs. To do so, the Commission is proposing to further specify the STAPD elements to be reported to and publicly disseminated at SDRs. While SDRs are already accepting and publicly disseminating most of the information in appendix C, the Commission believes standardization could be improved by updated, more specific definitions.

The Commission proposed SDR data validation requirements in the 2019 part 49 NPRM. Proposed § 43.3(d) would require reporting entities to satisfy the SDR data validation procedures. Since proposed § 43.3(d)(2) is closely related to proposed § 43.3(f), discussed below, the Commission views its discussion of the cost and benefits of § 43.3(f) equally applicable here and incorporates it by reference.

Baseline: Currently, appendix A to part 43, entitled ''Data Fields for Public Dissemination,'' describes the set of data fields that reporting counterparties are required to complete and provides guidance for such completion. For each data field, there is a corresponding description, example, and, where applicable, an enumerated list of allowable values. Currently, SDRs are not required to apply any data validation procedures on the reports sent to them. In addition, the Commission understands that at least some SDRs have flexible application programming interfaces (''APIs'') that allow reporting counterparties to report data for part 43 purposes in many ways, making standardization difficult, especially across SDRs.[268]

Benefits: The Commission expects both reporting entities and SDRs to benefit from further specified data elements and technical standards in how STAPD needs to be reported. These standards should, over time, make reporting easier and more accurate, which may reduce the time between when a trade is executed and when that trade is publicly reported. Standards may also allow reporting entities who currently report to multiple SDRs (traditionally the more active participants) to use similar reporting systems for all relevant SDRs. This would likely lower reporting costs, compared to the current environment in which SDRs have non-standardized requirements. Requiring all SDRs to have the same standards would also make it less costly for all participants to respond to changing market conditions (which might require new specifications), since the same changes would apply for all interactions between reporting entities and SDRs.

Most significantly, market participants are likely to benefit from the increased standardization of information, because of the added assurance that information publicly reported by one SDR is fully consistent with swap information published by another. This increased consistency will afford market participants a more easily-accessible, accurate view of activity across all Commission regulated swap markets. The Commission expects the general public would also benefit when the information is combined across SDRs to produce reports related to general swaps market activity.

Along with the expected benefits that will arise from the standardization and uniformity of existing information reported in real-time, the Commission expects additional benefits related to the new STAPD elements proposed in appendix C. For example, there is a new data element allowing users to identify PPSs or if the swap transaction is considered a bespoke swap. This additional information will allow for additional options in processing and studying the market information.

Costs: The Commission expects that reporting entities and SDRs would incur some initial costs to incorporate any new technical standards into their reporting infrastructure (*e.g.,* programming costs). This NPRM is proposed in parallel with the part 45 NPRM and relates to a subset of the information collected under part 45. This means the proposed changes to parts 43 and 45 would largely require technological changes that could merge two different data streams into one. For example, SDRs will have to make adjustments to their extraction, transformation, and loading (ETL) process in order to accept feeds that comply with new technical standards and validation conditions.

Because many of the changes SDRs would make to comply with part 43 will likely also allow it to comply with part 45, the Commission anticipates significantly lower aggregate costs relative to the costs for parts 43 and 45 separately. For this reason, the costs

[268] The Commission believes use of these flexible APIs has been encouraged by the current lack of specificity for reporting data elements.

described below may most accurately represent the full technological cost of satisfying the requirements for both proposed rules.

Based on conversations with CFTC staff experienced in designing data reporting, ingestion, and validation systems, Commission staff estimates the cost per SDR to be in a range of $141,000 to $500,000.[269] This staff cost estimate is based on a number of assumptions and covers the set of tasks required for the SDR to design, test, and implement a data system based on the proposed list of swap data elements in appendix C and the guidebook.[270] These numbers assume that each SDR will spend approximately 3,000–5,000 hours to establish ETL into a relational database on such a data stream.[271]

For reporting entities, the Commission estimates the cost per reporting entity to be in a range of $23,500 to $72,500.[272] This cost estimate is based on a number of assumptions and covers a number of tasks required by the reporting entities to design, test, and implement an updated data system based on the proposed swap data elements, technical standards, and validation conditions.[273] These tasks include defining requirements, developing an extraction query, developing of an interim extraction format (*e.g.,* CSV), developing validations, developing formatting conversions, developing a framework to execute tasks on a repeatable basis, and finally, integration and testing. Staff estimates that it would take a reporting entity 200 to 325 hours to implement the extraction. Including validations and formatting conversions would add another 300 to 400 hours, resulting in an estimated total of 500 to 725 hours per reporting entity.[274]

The Commission is proposing § 43.3(d) to address how data is reported to SDRs. Notwithstanding the anticipated incremental costs, the Commission preliminarily believes this change is warranted in light of the anticipated benefits.

Request for Comment

The Commission requests comment on its consideration of the costs and benefits of proposed § 43.3(d), including regarding issues and questions specifically identified below. Please provide data, statistics, or other supporting information for positions asserted.

(38) Are there additional costs or benefits that the Commission should consider? If so, please identify and, where quantifiable, provide data or other information to assist the Commission in quantifying them.

(39) Are there alternatives that would generate greater benefits and/or lower costs?

vi. § 43.3(f)—Data Validation Acceptance Message

The Commission is proposing § 43.3(f) to establish requirements for SDRs to validate real-time public data and send SEFs, DCMs, and reporting counterparties data validation acceptance or rejection messages.

The proposed validation requirements are designed to ensure collected information is accurate. The data validation process would require close communication between the reporting entity and the SDR and would cover data reported pursuant to both parts 43 and 45. To date, the Commission has not required the use of validations by the SDR and therefore has not provided any guidance on either the content or format of the messages associated with these validations.

While this change would require SDRs and reporting entities to update their systems, the Commission expects that, for the majority of swaps, validations would greatly increase the standardization of reporting requirements, so reporting entities could ensure that the updated systems would consistently pass the validation tests.

Baseline: SDRs are not required to validate data sent by reporting entities, a condition that exposes the public data tape to distortions through the inclusion of inaccurate or missing data. While there are no current requirements to validate data, we can observe activity that is related to market participants cancelling and correcting publicly disseminated trade information.[275] Based on observing a non-trivial share of records linked to this cancel and correct action, along with conversations with SDRs regarding their experience with reporting errors, the Commission expects this proposed rule change to help ensure accurate data is reported for public dissemination.

Benefits: The Commission expects that the proposed changes to § 43.3(f) will result in benefits through improved quality of data sent to the SDR and disseminated to the public. Improved quality of real-time data helps market participants in their trading decisions. It also enables better market oversight by self-regulatory organizations. Finally, more accurate and complete data helps researchers learn about swaps markets, which in turn can inform future regulatory decisions.[276]

[269] To generate the included estimates, a bottom-up estimation method was used based on internal CFTC expertise. In brief, and as seen in the estimates, the Commission anticipates that the task for the SDR's will be significantly more complex than it is for reporters. On several occasions, the CFTC has developed an ETL data stream similar to the anticipated parts 43 and 45 data streams. These data sets consist of 100–200 fields, similar to the number of fields in proposed appendix 1. This past Commission experience has been used to derive the included estimates.

[270] These assumptions include: (1) At a minimum, the SDRs will be required to establish a data extraction transformation and loading (ETL) process. This implies that either the SDR is using a sophisticated ETL tool, or will be implementing a data staging process from which the transformation can be implemented. (2) It is assumed that the SDR would require the implementation of a new database or other data storage vehicle from which their business processes can be executed. (3) While the proposed record structure is straight forward, the implementation of a database representing the different asset classes may be complex. (4) It is assumed that the SDR would need to implement a data validation regime typical of data sets of this size and magnitude. (5) It is reasonable to expect that the cost to operate the stream would be lower due to the standardization of incoming data, and the opportunity to automatically validate the data may make it less labor intensive.

[271] The lower estimate of $141,000 represents 3,000 working hours at the $47 rate. The higher estimate of $500,000 represents 5,000 working hours at the $100 rate.

[272] To generate the included estimates, a bottom-up estimation method was used based on internal CFTC expertise. On several occasions, the CFTC has created data sets that are transmitted to outside organizations. These data sets consist of 100–200 fields, similar to the number of fields in the proposed appendix 1. This past experience has been used to derive the included estimates.

[273] These assumptions include: (1) The data that will be provided to the SDRs from this group of reporters largely exists in their environment. The back end data is currently available; (2) the data transmission connection from the firms that provide the data to the SDR currently exists. The assumption for the purposes of this estimate is that reporting firms do not need to set up infrastructure components such as FTP servers, routers, switches, or other hardware; it is already in place; (3) implementing the requirement does not cause reporting firms to create back end systems to collect their data in preparation for submission. It is assumed that firms that submit this information have the data available on a query-able environment today, (4) reporting firms are provided with clear direction and guidance regarding form and manner of submission. A lack of clear guidance will significantly increase costs for each reporter; and (5) there is no cost to disable reporting streams that will be made for obsolete by the proposed change in part 43.

[274] The lower estimate of $23,500 represents 500 working hours at the $47 rate. The higher estimate of $72,500 represent 725 working hours at the $100 rate.

[275] For example, based on a three week study in January 2020, CFTC staff found 11% of IRS records linked to a ''Cancel'' action type and 8% of records linked to a ''Correct'' action type. For CDS, staff found 7% and 6% of records linked to a ''Cancel'' and ''Correct'' action type, respectively. These percentages are much larger for commodity swaps and also appear to have a higher share related to uncleared swaps.

[276] The Commission is aware of at least two publicly-available studies that discuss problems with the current part 43 data The first study found

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Furthermore, the Commission expects benefits to result from improved communication between SDRs and reporting entities due to this data validation requirement. Finally, since the Commission is also proposing similar data validation requirements for part 45 swap data, along with the currently proposed changes to part 49, the Commission expects reporting parties will benefit from having harmonized regulatory requirements.

Costs: The Commission expects that the proposed rule change would create costs for SEFs, DCMs, and reporting counterparties, as well as SDRs, as they would be required to manage validation messages related to STAPD meant to be released for public consumption ASATP following execution. The Commission expects these costs to be limited to the initial development of automated systems to deal with acceptance or rejection messages.

Costs may differ between SDRs and reporting parties. With respect to SDRs, the Commission expects the costs of this rule change to be higher for SDRs with a larger share of uncleared swaps. These swaps tend to be less standardized and therefore have a higher degree of reporting complexity. The Commission also expects costs to increase with the number of distinct reporting entities as the SDR will be required to set up lines of communication with each entity. For SEFs, DCMs, and reporting counterparties, the Commission expects costs to be higher for reporting parties not able or willing to build automated systems, as they would need to manually determine why a rejection message exists and then manually resubmit the corrected information. However, the Commission expects that these costs, for both the SDR and reporting entities, would be mitigated by the introduction of technical standards, as standardized reporting by all reporting entities should reduce the frequency of errors in reporting.

The Commission is proposing § 43.3(f) to establish requirements for SDRs to validate real-time public data. Notwithstanding the anticipated incremental costs, the Commission preliminarily believes this change is warranted in light of the anticipated benefits.

Request for Comment

The Commission requests comment on its consideration of the costs and benefits of proposed § 43.3(f), including regarding issues and questions specifically identified below. Please provide data, statistics, or other supporting information for positions asserted.

(40) Are there additional costs or benefits that the Commission should consider? If so, please identify and, where quantifiable, provide data or other information to assist the Commission in quantifying them.

(41) Are there alternatives that would generate greater benefits and/or lower costs?

(42) What would the costs be (both initial and on-going) for establishing and maintaining automated validation systems? What percentage of reporting entities would establish and maintain automated systems to manage validations? Please provide information on the basis for those estimates.

b. § 43.4—Swap Transaction and Pricing Data To Be Publicly Disseminated in Real-Time

i. § 43.4(f)—Process To Determine Appropriate Rounded Notional or Principal Amounts

The Commission is proposing to revise § 43.4(f) to amend the rules for rounding actual notional or principal amounts of a swap before disseminating such swap data. Amended § 43.4(f)(8) would require SDRs to round such that the revealed amount is more precise. For example, trades with notional principal amount less than 100 billion but equal to or greater than one billion, we currently require rounding to nearest billion, and the new requirement is for rounding to the nearest 100 million. Similarly, amended § 43.4(f)(9) would require SDRs to round to the nearest 10 billion (the current requirement is to the nearest 50 billion) notional for principal amounts greater than 100 billion before disseminating such swap data.

The reason the Commission requires SDRs to disseminate rounded notional or principal amounts of swaps is to conceal the exact notional of swap transactions to preserve the anonymity of specific large trades. Such concealment may be beneficial, since disseminating the exact notional of a swap could allow the public to discern the identity of the parties. For example, a very specific notional amount may be attributable to a specific counterparty, as may a very large trade, given that large trades are rare for most instruments.

Baseline: For both changes, the baseline is the current rule regarding appropriate rounding (*e.g.,* to the nearest $1 billion if the swap is between $1 billion and $100 billion). Under this baseline, notional amounts falling between $1 billion and $100 billion will be transformed into 100 different notional amounts. This reflects a rather imprecise grid of observed trade sizes.

Benefits: The main benefit of the rule changes is a more precise depiction of actual trade amounts. Precision would improve price discovery, giving market participants a better picture of the relationship between pricing and size for large trades that have occurred.

Costs: The main cost of this rule change is a reduction in the degree of anonymity of specific trades, which may make it more likely that the public can identify the counterparties to specific swaps. The proposed rounding changes may also make it more difficult for traders to hedge positions they acquire in large trades, because the publicly disseminated data would more accurately reveal trade size.

The Commission is proposing § 43.4(f) to amend the rules for rounding actual notional or principal amounts of a swap. Notwithstanding the anticipated incremental costs, the Commission preliminarily believes this change is warranted in light of the anticipated benefits following from increased transparency and the minimal increase in cost to market participant.

Request for Comment

The Commission requests comment on its consideration of the costs and benefits of proposed § 43.4(f), including regarding issues and questions specifically identified below. Please provide data, statistics, or other supporting information for positions asserted.

(43) Are there additional costs or benefits that the Commission should consider? If so, please identify and, where quantifiable, provide data or other information to assist the Commission in quantifying them.

(44) Are there alternatives that would generate greater benefits and/or lower costs?

(45) Would benefits be greater or costs reduced if the ranges covered by rounding and the round-off amounts were currency-specific (*i.e.,* different for different currencies) and/or commodity-specific? If so, please explain and provide supporting data or other information.

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that about 10% of CDS traded in their data set had missing or zero prices. Y.C. Loon, and Z. (Ken) Zhong, ''Does Dodd-Frank affect OTC transaction costs and liquidity? Evidence from real-time trade reports,'' *Journal of Financial Economics* (2016), *available at http://dx.doi.org/10.1016/j.jfineco.2016.01.01.* The second study reported a number of fields that were routinely null or missing, making it difficult to analyze swap market volumes. *See* Financial Stability Report, Office of Financial Research (Dec. 15, 2015) at 84–85, *available at https://financialresearch.gov/financial-stability-reports/files/OFR_2015-Financial-Stability-Report_12-15-2015.pdf.*

(46) What are the costs and benefits to alternative mechanisms to choose the currency-specific rounding amounts? For example, should all amounts be in USD equivalents, and then apply the same rounding as USD?

ii. § 43.4(g)—Process To Determine Cap Sizes

The Commission is proposing to amend § 43.4(g) to change the process for determining cap sizes. Proposed § 43.4(g)(2) would link the cap determination to a subset of newly defined swap categories in proposed § 43.6 and establish the use of the 75-percent calculation described in proposed § 43.6(c)(2). Proposed §§ 43.4(g)(3)–(8) would define new cap sizes for any swap not falling into a swap category defined in proposed § 43.4(g)(2). Proposed §§ 43.4(g)(9)–(10) would focus on how the Commission would publish any cap size revision and determine when it becomes effective.

Cap sizes effectively results in a permanent truncation of notional values released to the public and are meant to apply to the largest trades within a defined swap category. This truncation necessarily results in a less transparent market, but is meant to protect sensitive information and mitigate the potential negative impact of real-time public reporting on market liquidity.[277] The adjustment to how cap sizes are determined is paired in this rule with changes to the methodology of determining block sizes. Both block and cap rules lead to certain information about swap activity being held back from public dissemination. In the case of caps, information on the actual notional size of an extremely large trade is permanently replaced with the cap value in the public tape. In the case of blocks, information on the terms of a large swap is temporarily delayed from dissemination.[278]

Due to their permanence, caps could have a more significant effect on information dissemination compared to blocks, which allow for only a delay in reporting. Current § 43.4(h) defines current cap sizes by asset class and delineates them in USD notional amounts. For example, there currently are three fixed cap sizes for IRSs in § 43.4(h)(1)(i) based on tenor: Caps of 250 million USD for swaps with a tenor of zero to two years; 100 million USD for swaps with a tenor of two to ten years; and 75 million USD for swaps with a tenor greater than ten years. The remaining asset classes currently have a single fixed cap size: 100 Million USD for CDSs; 250 million USD for equity swaps and foreign exchange; and 25 million USD for other commodity swaps.[279]

As discussed, the Commission is proposing new swap categories and the use of a higher percentage to calculate AMBSs.[280] The proposed process to determine cap sizes would use the proposed new swap categories and a similar method as is currently used to define AMBSs, but with a 75-percent notional amount calculation instead of a 67-percent notional amount calculation. Therefore, the proposed rule change better aligns the block and cap determination since they would now be based on the same set of underlying trades. However, use of the 75-percent notional amount calculation method instead of the 67-percent notional amount calculation method would ensure caps would always be a smaller subset of trades.

The Commission reviewed the current cap sizes and found significant differences in the percentage of trades that are eligible for cap treatment, both within and across the main asset classes. This reflects the fact that within asset classes, the vast majority of swaps have the same cap size across all trade tenor groups.

Determining the effect of the change in cap determination methodology requires some assumptions. For example, an assumption that the determination change does not affect the distribution of trade sizes is critical to quantifying that effect. Under the assumption that the distribution of trade sizes is invariant to defined limits, the Commission calculated some rough estimates of the effect of the limit changes, based on trading from late 2019.[281]

Overall, the Commission finds the effect to be a modest decrease in the number of trades eligible for cap treatment. Nearly 90% of trades were smaller than minimum cap size under the old methodology, and will remain so under the new methodology. Commission staff found approximately 2% of trades were larger than minimum cap size under the old methodology, and would be larger than minimum cap (and hence minimum block) size under the new methodology. Roughly 7% are cap eligible under the current methodology, but will no longer be under the new methodology. A little more than 1% of trades were large than minimum cap size under the old methodology, and will be larger than minimum block (but not cap) size under the new methodology.

The Commission expects somewhat larger effects in the index CDS class. For example, for CDS indices based on investment grade indexes, 22% of trades are eligible for cap treatment under the current methodology, while under the new cap determination methodology this would be reduced to 3% of trades.

Baseline: Current practice, based on the initial cap sizes defined in § 43.4(h)(1), forms the baseline for this cost and benefits discussion.[282] As discussed above, the current cap size regime is over-inclusive, diminishing market transparency.

Benefits: The Commission expects a number of benefits to arise from the proposed rule change given the improved alignment with the AMBS and the movement toward a cap size that is based on market activity. Similar to the benefits noted in the block level discussion below, the movement toward better defined swap categories would ensure cap sizes are determined from a set of similar swaps. Proposed changes to the cap size method would better reflect the underlying market and are expected to benefit market transparency, as there would exist a clear separation between the block and cap size. This is most apparent in the interest rate asset class. The proposed rule change would ensure that cap eligibility would be reserved for only the trades with the largest notional amounts.

Costs: The Commission expects that the proposed rule change would impose costs on SDRs, as they would be required to adjust their systems to determine when trades within each new swap category would meet the requirements for cap treatment. The Commission expects such costs to be minimal given the SDRs already have systems established to identify when swaps are eligible for block and/or cap treatment.

Both the costs and benefits of increasing or decreasing cap sizes result from the increased or decreased, respectively, anonymity they afford. To

[277] *See* Procedures to Establish Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades, 78 FR 32866, 32907.

[278] Of course, in the case when a swap satisfies both the cap and the block threshold, both are true.

[279] *See* §§ 43.5(h)(1)(ii)–(v).

[280] *See* the discussion about proposed changes to § 43.6 below in section V.B.4. for a more complete discussion along with the cost/benefit consideration of new swap categories.

[281] A sample of 20 weeks was selected from 8/2/2019 to 12/27/2019 for CDS and IRS markets. This is based on information collected to create the CFTC's Weekly Swaps Report. While the information is based on part 45 data, the vast majority of the trades selected are reportable swaps under part 43.

[282] Since the Commission has not to date established post-initial cap sizes pursuant to §§ 43.4(h)(2) and 43.6(f)(1), it is using the initial cap sizes as the baseline.

the extent that the revised cap sizes reduce anonymity for an asset class, those effects are mitigated by delays in reporting. Of particular relevance is that all trades with capped notional would be block eligible. Hence, the time delay in § 43.5 would reduce both the positive and negative effects of the changes in anonymity associated with changes in cap sizes.

The Commission is proposing § 43.4(g) to change the process for determining cap sizes. Notwithstanding the anticipated incremental costs, the Commission preliminarily believes this change is warranted in light of the anticipated benefits.

Request for Comment

The Commission requests comment on its consideration of the costs and benefits of proposed § 43.4(g), including regarding issues and questions specifically identified below. Please provide data, statistics, or other supporting information for positions asserted.

(47) Are there additional costs or benefits that the Commission should consider? If so, please identify and, where quantifiable, provide data or other information to assist the Commission in quantifying them.

(48) Are there alternatives that would generate greater benefits and/or lower costs?

(49) Would benefits be greater or costs reduced if the 75-percent notional amount calculation method was replaced with an alternative method to identifying the cap threshold? Should there be a different method applied to caps and blocks since they are designed to accomplish different objectives? If so, please explain and provide supporting data or other information.

(50) For the other commodity swap category (for which swaps are often measured in physical units), swaps have a block size equal to zero, and there is a fixed cap size denominated in USD notional. For such swaps, what are the costs to SDRs to convert the notional amount into USD to determine whether the trade meets the cap threshold?

c. § 43.5—Time Delays for Public Dissemination of Swap Transaction and Pricing Data

The Commission is proposing § 43.5(c) to increase the delay for the public dissemination of block trades to 48 hours for all block transactions. This time delay would be a significant change from the current rules, which set the length of the delay based on transaction and counterparty characteristics.[283] For example, one part of the current rule defines the length of delay conditional on whether the swap is executed on a SEF. Another conditions the length of delay on whether the swap is subject to the mandatory clearing requirement. Finally, the current rule allows for additional time if neither counterparty is a SD/MSP.

Baseline: Under the current § 43.5, multiple time delays are in effect. As discussed in section II.E. above, these time delays range from 15 minutes for block trades executed on a SEF to 24 business hours for LNOFs swaps not subject to mandatory clearing and where both sides of the trade are not SDs/MSPs.

Benefits: The Commission anticipates the primary effect of proposed § 43.5(c) would be to provide additional time to intermediaries to hedge the exposure resulting from accommodating large trades. One benefit of the additional hedging time provided to intermediaries is the potential for lower price volatility than if the trade information were released in real time.[284] The lower hedging costs may benefit end-users wishing to make large trades, to the extent reduced hedging costs are passed to them. To the extent that price volatility unrelated to the fundamental supply and demand of the instrument is mitigated, price discovery might be enhanced by a delay. On the other hand, if a trade is fundamentally informative, a delay in publication would allow some participants to trade at off-market prices during the period of the delay, which is a potential cost to the change.

Costs: Proposed § 43.5(c) would extend the delay for reporting swap transactions with notional amounts above the minimum block size. Therefore, the Commission anticipates costs associated with a reduction in the market transparency for a specific set of swaps. The Commission expects that these costs would be reduced by the additional rule changes to the swap categories and AMBSs. For example, the Commission expects fewer trades to get block status as a result of proposed rule changes in § 43.8, leading to improved transparency for trades between the old and new threshold sizes. This mitigation is discussed at length in the preamble.

The Commission is proposing § 43.5(c) to increase the delay for public dissemination of block trade information. Notwithstanding the anticipated incremental costs, the Commission preliminarily believes this change is warranted in light of the anticipated benefits.

Request for Comment

The Commission requests comment on its consideration of the costs and benefits of proposed § 43.5(c), including regarding issues and questions specifically identified below. Please provide data, statistics, or other supporting information for positions asserted.

(51) Are there additional costs or benefits that the Commission should consider? If so, please identify and, where quantifiable, provide data or other information to assist the Commission in quantifying them.

(52) Are there alternatives that would generate greater benefits and/or lower costs?

(53) Should the Commission expect the distribution of costs and/or benefits to significantly vary across swap categories? If so, please provide specific examples and a discussion of the differences.

(54) What is the hedging cost savings from delaying the revelation of large trades? Could similar savings be realized in any swap category if the delay was less than 48 hours?

(55) What factors make it more or less likely that intermediaries will pass hedging cost savings resulting from delaying the revelation of large trades to their clients?

(56) What costs (*e.g.,* reduced liquidity, bad pricing, wide spreads) are being incurred under the status quo regime? Please provide detailed information regarding the basis of those estimates.

d. § 43.6—Block Trades

The Commission is proposing a number of revisions to § 43.6. The most economically significant revisions of these relate to block trades; revising the set of swap categories in § 43.6(b) and amending to the process for determining the AMBS in § 43.6(e). The remaining changes proposed in § 43.6 are not substantive and are clarifying changes, so the Commission has not described the costs and benefits of such proposed changes.[285]

[283] *See* 17 CFR 43.5.

[284] There is substantial literature (*see, e.g.,* Hendrik Bessembinder and Kumar Vankatarman (2010) ''Bid-Ask Spread'' *Encyclopedia of Quantitative Finance* for a discussion) on the temporary impact of large traders. The time delay could allow the intermediary to ''spread out the trade'' to avoid price volatility induced by such large trades.

[285] For example, § 43.6(c) discusses the proposed method for determining the AMBS, but the only change from the current rule text is related to the new definition for a ''trimmed data set.'' The Commission does not believe that this change warrants a discussion of the costs and benefits.

In general, changes in minimum block sizes, cap sizes, and reporting delays have broadly similar effects. Lower minimum block and cap sizes and longer reporting delays reduce transparency, and may increase liquidity.[286] In this sense, the costs and benefits of the changes described below would depend on the direction of the change (*e.g.,* a higher minimum block would increase transparency and may reduce liquidity).

As detailed below, the revisions would lead to changes that would result in assigned block sizes that better reflect trading patterns in individual swap categories. Specifically, the categories of swaps used in the minimum block size determination have been revised to better ensure that each category is more homogenous in terms of typical trade sizes. For example, under the current rule, rate swaps are placed into three groups based on currency (super-major, major, and non-major), and each group is divided into nine subgroups based on tenor (with the shortest tenor bucket representing swaps of less than 46 days and the longest tenor bucket representing swaps of greater than 30 years).

The proposed rule, in contrast, would define 15 currency-specific groups, each with the same nine tenor subgroups. This more granular bucketing allows for more targeted block levels; for instance, this allows block levels for the most active USD IRS products to differ from levels for the still active, but slightly less common JPY or GBP IRS products, where trade sizes are lower. All currencies not within the list of 15 would have a block size of zero—essentially allowing this small subset of IRS to receive full block treatment.[287]

For CDSs, the new swap categories would no longer be based on observed spreads with multiple tenor groups, but would be based on well-defined products (*e.g.,* CDXIG, CMBX, iTraxx) for a single tenor range between four to six years (designed to pick up the most actively traded five year on-the-run CDS product). All other CDS products which do not fall into these defined product groups, or defined product tenor, would have a new block size of zero.

Swap categories in the FX asset class would include a list of 22 currencies exchanged for USD along with the set of 180 swap categories comprised of each unique combination of exchanges of these 22 currencies.[288] This represents a significant difference from the current set of 84 swap categories comprised of 22 currencies exchanged for one of the super-major currencies (EUR, GBP, JPY, or USD).[289] Finally, there is a significant change to swap categories related to ''Other Commodity'' as the new proposed categories represent the underlying commodity instead of references to specific futures contracts and exchanges.

Revised § 43.6(e) contains amendments to the process for determining the AMBS for each new swap category defined in § 43.6(c). For each swap category, the 67-percent notional amount calculation based on one year of transactions would be performed for a subset of swap categories. The minimum size for a subset of swaps in the FX asset class that have no reference to USD would be based on a method to identify the AMBS based on two swap categories, with each side paired with USD. Finally, a subset of swap categories would have a block size of zero.

The swap category changes combined with the new 67-percent notional amount calculation would significantly change the number of trades eligible for block status; we discuss the costs and benefits to these changes below. The Commission reviewed the current block sizes and found significant differences in the percentage of trades that are eligible for block treatment, both within and across the main asset classes. This reflects the fact that within asset classes, the vast majority of swaps have the same block size across all trade tenor groups.

One further implication of the proposed amendments to the process for determining the AMBS in § 43.6(e) relates to trading rules for made available for trading (''MAT'') instruments. The Commission requires that instruments that have been MAT be traded on SEFs or DCMs using specific trading protocols (*i.e.,* order book or request for quote), unless the trade is greater than the AMBS for such instruments.[290] Hence, changes in the AMBS impact whether individual trades must be executed on SEFs or DCMs, or whether they can be executed bilaterally.[291] The Commission considered the costs and benefits of requiring mandatory DCM/SEF trading for certain instruments in the 2018 SEF NPRM, and adopts and incorporates that previous consideration in this release by reference.[292] Here, the Commission simply notes that changes in the AMBS may affect whether certain swaps have to be executed on a SEF or DCM, as noted above.

The proposed amendments to § 43.6(e) would result in a block size of zero for many of the swaps not in the most liquid swap categories. This would result in 100% of many types of swaps (*e.g.,* off-the-run CDSs and certain major and non-major currencies in the IRS and FX asset classes) being eligible for block treatment.

Baseline: The baseline for proposed § 43.6(e) is the current text §§ 43.6(e) and (f) and the current process for determining if a trade is eligible for block treatment. As discussed in section II.F.2, the Commission has not established post-initial AMBSs. As a result, the baseline is the AMBSs for current swap categories calculated using the 50-percent notional amount calculation method according to current § 43.6(e). The Commission believes that too many swaps are currently receiving block treatment and the swap categories can be improved.

Benefits: The motivation for special rules for ''large'' trades is that large trades often require intermediaries to take large positions (at least temporarily). Importantly, the costs to the intermediaries to subsequently hedge the trade are reduced by allowing the intermediaries some period to hedge, prior to the initial trade becoming public knowledge. A trade is large in this sense when it is substantial relative to typical trade size and daily volume in that instrument. For this reason, policy toward block size determination should take an instrument's market characteristics into account.

The Commission expects that the change in swap categories would define block sizes with respect to categories that are more granular than the current swap categories, which would then better reflect current trading patterns for each type of swap. For example, USD

[286] For example, trading a block allows for a temporary suspension of information made publicly available. This can prevent traders from ''front-running'' a swap dealer attempt to hedge a large exposure it acquired by trading with a customer. By lowering the SD's cost of hedging, the delay in reporting can result in greater SD willingness to offer liquidity to customers.

[287] The background to the proposal to set the block size of certain subsets of swaps in the IRS, CDS, foreign exchange, and other commodity asset classes is discussed in sections II.F.1.a, b, d. and e, respectively, above.

[288] In this last set, the AMBS is based on the AMBS of the associated currencies exchanged for the USD.

[289] While there are 84 current swap categories for FX, 40 of these have a block size of zero.

[290] There are some exceptions to the mandatory trading on SEFs for MAT instruments, such as trades that involve non-U.S. persons.

[291] The definition of ''block trade'' is discussed above in section II.B.2.

[292] *See* 83 FR 61946, 62140 Swap Execution Facilities and Trade Execution Requirement. As noted there, the benefits of requiring SEF trading include greater transparency and enhanced oversight. The costs include reduced flexibility for traders.

IRSs currently represent most of the actual trades in the IRS Super-Major category, so that the current AMBS for JPY IRS swaps (also in the Super-Major category) is based largely on USD trades. The new rules would allow for an AMBS that better reflects the size distribution of JPY rate swaps, and in this case would allow for a smaller block threshold for these swaps relative to the more active USD category. The move from spread-based to product-based swap categories for CDSs is expected to achieve something similar, in that the liquidity (and thus trade distribution) is often much more homogenous within a product group rather than within a spread category. This change would also provide the additional benefit of foreclosing the possibility that an individual product may not change block thresholds as market spreads adjust over time.

The Commission expects that the proposed 67-percent notional amount calculations would enhance transparency in the market by decreasing the number of trades eligible for block treatment and therefore result in delayed reporting. The increased percentile (from 50 to 67) would result in a smaller set of swaps eligible for block treatment and therefore would increase real-time market reporting, leading to increased accuracy in the real-time tape. However, because the average size of block trades would generally increase under the proposed rules, the Commission proposes to pair this change with an extension to the reporting delay (in some cases from 15 minutes to 48 hours). The Commission believes this longer delay is more appropriate given the larger notional size; because the primary reason for the delay is to ensure that the dealing counterparty is able to hedge out the risk taken in the trade, a larger average trade size would imply a greater needed time for trade hedging.

Costs: The Commission anticipates costs associated with this rule change as market participants respond to the new swap categories and increased percentile calculation. For example, focusing on USD interest rate swaps, the proposed rule change would, by increasing the block threshold, decrease the set of swaps eligible for block status. If end-users continue to trade swaps within this notional range, dealers may find it more difficult to hedge their exposure because ASATP reporting would be required. If dealers face increased difficulties to hedge client demands, then the dealers will increase the costs to the clients or, potentially, stop trading in this notional range which can contribute to a decrease in liquidity. As discussed above, this in turn may increase price volatility, and potentially increase the bid-ask spread facing end-users.

The Commission expects these costs to vary by asset class and the activity level of the reporting entity, though the more granular bucketing of block categories is aimed to ensure that cost variations across asset classes are mitigated. Costs may also differ by reporting entity depending on the type of cost. For instance, the Commission expects SDs and end-users specializing in a single swap category to face smaller operational costs relative to dealers who operate across multiple swap categories, given they would only have to adjust their operational systems (where necessary) for specific swap categories. However, if transaction/hedging costs are affected by the changes in the block threshold, hedging may be easier (and thus costs lower) for dealers active in a number of markets, who therefore have a wider set of potential hedging instruments. Finally, depending on how trade prices are determined, the costs attributed to the dealer above may actually be passed on to the end-user/client in the form of increased spreads.

The Commission is proposing § 43.6(e) to adjust the process for determining the AMBS. Notwithstanding the anticipated incremental costs, the Commission preliminarily believes this change is warranted in light of the anticipated benefits.

Request for Comment

The Commission requests comment on its consideration of the costs and benefits of proposed § 43.6(e), including regarding issues and questions specifically identified below. Please provide data, statistics, or other supporting information for positions asserted.

(57) Are there additional costs or benefits that the Commission should consider? If so, please identify and, where quantifiable, provide data or other information to assist the Commission in quantifying them.

(58) Are there alternatives that would generate greater benefits and/or lower costs?

(59) What is the increased cost due to earlier revelation of trades that will no longer be subject to block treatment?

(60) From an economic perspective, are there additional swap categories that should be considered that would significantly change the cost and benefits?

(61) Would benefits increase or costs decrease if the sample used to calculate AMBS excluded some parts of the year that might have uncharacteristic trading patterns (*e.g.,* if the sample of CDS trades excluded dates when CDS indexes roll (which happens twice a year for the major indexes))? Are there any similar events for other asset classes? Please provide detailed information regarding the estimated impact on resulting benefits and costs.

(62) Would benefits increase or costs decrease if the Commission adopted a flexible method to evaluate AMBS and adjust accordingly to reflect changes in trading patterns? Please provide information regarding the basis of those estimates.

3. Section 15(a) Factors

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of the proposed amendments to part 43 with respect to the following factors: Protection of market participants and the public; efficiency, competitiveness, and financial integrity of markets; price discovery; sound risk management practices; and other public interest considerations.

As discussed above, the proposed amendments to part 43 include changes that reflect what the Commission has learned about the technical aspects of reporting, as well as changes that permit longer delays or more opacity in reporting under some circumstances. The Commission expects that this, along with the data validation requirements in proposed § 43.3(f), would increase the reliability of part 43 data.

A discussion of these proposed amendments in light of section 15(a) factors reflecting all of the proposed changes is set out immediately below.

a. Protection of Market Participants and the Public

The Commission preliminarily believes that reporting requirements designed to enhance transparency empower market participants by informing them, in real-time, about the price of a broad set of swap products. This real-time information helps protect these participants from transacting at prices significantly different than the prevailing market. In addition, the Commission preliminarily believes that enhanced transparency allows for better monitoring of the quantity, and size, of market transactions leading to improved protection of market participants and the public. As discussed above, some of the changes increase transparency, such as general increases in block sizes and improvements in reported data, while other changes reduce transparency, such as delayed block reporting. However, the changes proposed herein which potentially reduce transparency may

reduce hedging costs for large trades, protecting those participants who tend to execute uniquely large swaps.

b. Efficiency, Competitiveness, and Financial Integrity of Markets

Real-time reporting of transactions affects the efficiency of markets by quickly providing new information to all market participants in a standardized manner. This real-time information, which is publicly accessible, allows prices to rapidly and efficiently adjust to the prevailing trading conditions. To the extent that these proposed rules reduce the cost of information gathering and processing, market efficiency should be improved. Increasing the threshold size of block trades may have an ambiguous effect on market efficiency. It may improve market efficiency by countering potential front-running may lead to larger bid/ask spreads. However, it may harm market efficiency in that market participants will learn about some trades later because of this proposed rule. In the aggregate, the Commission preliminarily believes the proposed rule will weigh in favor of market efficiency.

Improvements to real-time reporting may also enhance competition as parties may learn about the prices and venues where potential counterparties are executing their transactions. As such, swaps markets may become more competitive since parties will have access to the prices that most participants are transacting at and will be able to use this information during their negotiations.

The rule changes, through their effects on transparency, can affect the financial integrity of markets because market participants can verify that they are transacting at or near prevailing market prices. In addition to transparency, the proposed changes to part 43 might affect financial integrity in other ways. In particular, the Commission preliminarily believes that more accurate STAPD would lead to greater understanding of liquidity and market depth for market participants executing swap transactions. Amendments that result in improved part 43 STAPD being made available to the public would expand the ability of market participants to monitor real-time activity by other participants and to respond appropriately.

c. Price Discovery

Section 2(a)(13) of the CEA requires that STAPD be made publicly available. The CEA and the Commission's existing regulations in part 43 implementing CEA section 2(a)(13) also require STAPD to be made available to the public in real-time. As with the swap data reported for use by regulators pursuant to section 4r of the CEA and the Commission's part 45 regulations implementing CEA section 4r, the Commission believes that inaccurate and incomplete STAPD hinders the use of the STAPD, which harms transparency and price discovery. At least two publicly available studies discuss past problems with the current part 43 data. The Commission preliminarily expects that market participants would be better able to analyze STAPD as a result of the proposed amendments, because the proposed amendments would make STAPD more accurate and complete. The Commission expects price discovery to be improved with proposed changes to clearing swaps and avoiding duplicative reporting of mirror swaps.

On the other hand, some aspects of the proposed rules may dampen price discovery relative to the status quo baseline. Specifically, if proposed § 43.4(a)(4) encouraged more PPSs, then the proposal may also reduce price discovery because fewer trades would have prices that are known at the time of execution.[293] Further, longer block trade real-time reporting delays pursuant to proposed § 43.5(c) could harm price discovery because the public would lengthen the time before which block trade prices are publicly available than is currently the case; this would be counter-balanced by the fact that longer delays could promote the execution of swaps that counterparties otherwise would not execute under the current shorter real-time reporting delays.

The Commission does not know exactly how market participants will adapt and evolve due to the proposed rule changes. However, the Commission preliminarily believes that the proposed rule will improve price discovery in aggregate.

d. Sound Risk Management Practices

The Commission preliminarily expects that allowing reporting parties a greater ability to delay reporting would, in some circumstances, enable more effective hedging. In particular, SDs may have greater ability to manage the risk they take on when accommodating customer trades. This in turn may allow such customers access to better terms for hedging their risk, especially if they want to hedge a large amount of risk.

[293] On the other hand, as noted above, removing mirror swaps from the public data could remove redundancy thereby promoting the accuracy of the data.

e. Other Public Interest Considerations

More accurate part 43 data would be helpful to researchers who might use it to improve the public's understanding of how swap markets function with respect to market participants, other financial markets, and the overall economy. Further, better and more accurate data would likely improve the Commission's regulatory oversight and enforcement capabilities. The Commission requests comment on all aspects of the analysis of these five factors. In addition, the Commission requests specific comment on the following:

(63) Are there other effects on these five factors that are likely to result from the proposed rule changes? Please provide quantification if possible, along with information regarding the basis of that quantification.

D. Antitrust Considerations

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of the CEA, in issuing any order or adopting any Commission rule or regulation.

The Commission does not anticipate that the proposed amendments to part 43 would result in anti-competitive behavior. However, the Commission encourages comments from the public on any aspect of the proposal that may have the potential to be inconsistent with the anti-trust laws or anti-competitive in nature.

List of Subjects in 17 CFR Part 43

Real-time public swap reporting.

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR part 43 as set forth below:

PART 43—REAL-TIME PUBLIC REPORTING

■ 1. The authority citation for part 43 continues to read as follows:

Authority: 7 U.S.C. 2(a), 12a(5), and 24a, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (Jul. 21, 2010), unless otherwise noted.

■ 2. Amend § 43.1 by removing paragraphs (b) and (d), redesignating paragraph (c) as (b), and revising newly redesignated paragraph (b).

The revision reads as follows:

§ 43.1 Purpose, scope, and rules of construction.

* * * * *

(b) *Rules of construction.* The examples in this part are not exclusive. Compliance with a particular example or application of a sample clause, to the extent applicable, shall constitute compliance with the particular portion of the rule to which the example relates.

■ 3. Revise § 43.2 to read as follows:

§ 43.2 Definitions.

(a) *Definitions.* As used in this part:

Appropriate minimum block size means the minimum notional or principal amount for a category of swaps that qualifies a swap within such category as a block trade.

As soon as technologically practicable means as soon as possible, taking into consideration the prevalence, implementation, and use of technology by comparable market participants.

Asset class means a broad category of commodities including, without limitation, any ''excluded commodity'' as defined in section 1a(19) of the Act, with common characteristics underlying a swap. The asset classes include interest rate, foreign exchange, credit, equity, other commodity, and such other asset classes as may be determined by the Commission.

Block trade means:

(1) With respect to an off-facility swap, a publicly reportable swap that has a notional or principal amount at or above the appropriate minimum block size applicable to such swap; and

(2) With respect to a swap that is not an off-facility swap, a publicly reportable swap that:

(i) Involves a swap that is listed on a swap execution facility or designated contract market;

(ii) Is executed on the trading system or platform, that is not an order book as defined in § 37.3(a)(3) of this chapter, of a swap execution facility or occurs away from a swap execution facility's or designated contract market's trading system or platform and is executed pursuant to the swap execution facility's or designated contract market's rules and procedures;

(iii) Has a notional or principal amount at or above the appropriate minimum block size applicable to such swap; and

(iv) Is reported subject to the rules and procedures of the swap execution facility or designated contract market and the rules described in this part, including the appropriate time delay requirements set forth in § 43.5.

Cap size means, for each swap category, the maximum notional or principal amount of a publicly reportable swap transaction that is publicly disseminated.

Economically related means a direct or indirect reference to the same commodity at the same delivery location or locations, or with the same or a substantially similar cash market price series.

Embedded option means any right, but not an obligation, provided to one party of a swap by the other party to the swap that provides the party holding the option with the ability to change any one or more of the economic terms of the swap.

Execution means an agreement by the parties, by any method, to the terms of a swap that legally binds the parties to such swap terms under applicable law.

Execution date means the date, determined by reference to eastern time, on which swap execution has occurred.

Mirror swap means a swap:

(1) To which a prime broker is a counterparty or both counterparties are prime brokers;

(2) That is executed contemporaneously with a corresponding trigger swap;

(3) That has identical terms and pricing as the contemporaneously executed trigger swap (except that a mirror swap, but not the corresponding trigger swap, may include any associated prime brokerage service fees agreed to by the parties and except as provided in the final sentence of this ''mirror swap'' definition);

(4) With respect to which the sole price forming event is the occurrence of the contemporaneously executed trigger swap; and

(5) The execution of which is contingent on, or is triggered by, the execution of the contemporaneously executed trigger swap. The notional amount of a mirror swap may differ from the notional amount of the corresponding trigger swap, including, but not limited to, in the case of a mirror swap that is part of a partial reverse give-up; *provided, however,* that in such cases,

(i) The aggregate notional amount of all such mirror swaps to which the prime broker that is a counterparty to the trigger swap is also a counterparty shall be equal to the notional amount of the corresponding trigger swap and

(ii) The market risk and contractual cash flows of all such mirror swaps to which a prime broker that is not a counterparty to the corresponding trigger swap is a party will offset each other (and the aggregate notional amount of all such mirror swaps on one side of the market and with cash flows in one direction shall be equal to the aggregate notional amount of all such mirror swaps on the other side of the market and with cash flows in the opposite direction), resulting in such prime broker having a flat market risk position.

Novation means the process by which a party to a swap legally transfers all or part of its rights, liabilities, duties, and obligations under the swap to a new legal party other than the counterparty to the swap under applicable law.

Off-facility swap means any swap transaction that is not executed on or pursuant to the rules of a swap execution facility or designated contract market.

Other commodity means any commodity that is not categorized in the interest rate, credit, foreign exchange, equity, or other asset classes as may be determined by the Commission.

Physical commodity swap means a swap in the other commodity asset class that is based on a tangible commodity.

Post-priced swap means an off-facility swap for which the price has not been determined at the time of execution.

Pricing event means the completion of the negotiation of the material economic terms and pricing of a trigger swap.

Prime broker means, with respect to a mirror swap and its related trigger swap, a swap dealer acting in the capacity of a prime broker with respect to such swaps.

Prime brokerage agency arrangement means an arrangement pursuant to which a prime broker authorizes one of its clients, acting as agent for such prime broker, to cause the execution of a trigger swap.

Prime brokerage agent means a client of a prime broker who causes the execution of a trigger swap acting pursuant to a prime brokerage agency arrangement.

Public dissemination and publicly disseminate means to make freely available and readily accessible to the public swap transaction and pricing data in a non-discriminatory manner, through the internet or other electronic data feed that is widely published. Such public dissemination shall be made in a consistent, usable, and machine-readable electronic format that allows the data to be downloaded, saved, and analyzed.

Publicly reportable swap transaction means:

(1) Unless otherwise provided in this part—

(i) Any executed swap that is an arm's-length transaction between two parties that results in a corresponding change in the market risk position between the two parties; or

(ii) Any termination, assignment, novation, exchange, transfer, amendment, conveyance, or extinguishing of rights or obligations of

a swap that changes the pricing of the swap.

(2) Examples of executed swaps that do not fall within the definition of publicly reportable swap may include:

(i) Internal swaps between one-hundred percent owned subsidiaries of the same parent entity; and

(ii) Portfolio compression exercises.

(3) These examples represent swaps that are not at arm's length and thus are not publicly reportable swap transactions, notwithstanding that they do result in a corresponding change in the market risk position between two parties.

Reference price means a floating price series (including derivatives contract prices and cash market prices or price indices) used by the parties to a swap or swaption to determine payments made, exchanged, or accrued under the terms of a swap contract.

Reporting counterparty means the party to a swap with the duty to report a publicly reportable swap transaction in accordance with this part and section 2(a)(13)(F) of the Act.

Swap execution facility means a trading system or platform that is a swap execution facility as defined in CEA section 1a(50) and in § 1.3 of this chapter and that is registered with the Commission pursuant to CEA section 5h and part 37 of this chapter.

Swap transaction and pricing data means all data elements for a swap in appendix C of this part required to be reported or publicly disseminated pursuant to this part.

Swaps with composite reference prices means swaps based on reference prices that are composed of more than one reference price from more than one swap category.

Trigger swap means a swap:

(1) That is executed pursuant to one or more prime brokerage agency arrangements;

(2) To which a prime broker is a counterparty or both counterparties are prime brokers;

(3) That serves as the contingency for, or triggers, the execution of one or more corresponding mirror swaps; and

(4) That is a publicly reportable swap transaction that is required to be reported to a swap data repository pursuant to this part and part 45 of this chapter.

Trimmed data set means a data set that has had extraordinarily large notional transactions removed by transforming the data into a logarithm with a base of 10, computing the mean, and excluding transactions that are beyond two standard deviations above the mean for the other commodity asset class and three standard deviations above the mean for all other asset classes.

(b) *Other defined terms.* Terms not defined in this part have the meanings assigned to the terms in § 1.3 of this chapter.

■ 4. Amend § 43.3 by revising paragraphs (a) through (d), removing paragraph (h), redesignating paragraph (i) as paragraph (g), and revising paragraph (f) and newly redesignated paragraph (g).

The revisions read as follows:

§ 43.3 Method and timing for real-time public reporting.

(a) *Responsibilities of parties to a swap to report swap transaction and pricing data in real-time*—(1) *In general.* A reporting counterparty, swap execution facility, or designated contract market, as determined by this section, shall report any publicly reportable swap transaction to a swap data repository as soon as technologically practicable after execution, subject to paragraphs (a)(2) through (6) of this section. Such reporting shall be done in the manner set forth in paragraph (d) of this section.

(2) *Swaps executed on or pursuant to the rules of a swap execution facility or designated contract market.* For each swap executed on or pursuant to the rules of a swap execution facility or designated contract market, the swap execution facility or designated contract market shall report swap transaction and pricing data to a swap data repository as soon as technologically practicable after execution.

(3) *Off-facility swaps.* Except as otherwise provided in paragraphs (a)(4) through (6) of this section, a reporting counterparty shall report all publicly reportable swap transactions that are off-facility swaps to a swap data repository for the appropriate asset class in accordance with the rules set forth in this part as soon as technologically practicable after execution. Unless otherwise agreed to by the parties prior to execution, the following shall be the reporting counterparty for a publicly reportable swap transaction that is an off-facility swap:

(i) If only one party is a swap dealer or major swap participant, then the swap dealer or major swap participant shall be the reporting counterparty;

(ii) If one party is a swap dealer and the other party is a major swap participant, then the swap dealer shall be the reporting counterparty;

(iii) If both parties are swap dealers, then prior to execution of a publicly reportable swap transaction that is an off-facility swap, the swap dealers shall designate which party shall be the reporting counterparty;

(iv) If both parties are major swap participants, then prior to execution of a publicly reportable swap transaction that is an off-facility swap, the major swap participants shall designate which party shall be the reporting counterparty; and

(v) If neither party is a swap dealer or a major swap participant, then prior to execution of a publicly reportable swap transaction that is an off-facility swap, the parties shall designate which party shall be the reporting counterparty.

(4) *Post-priced swaps*—(i) *Post-priced swaps reporting delays.* The reporting counterparty may delay reporting a post-priced swap to a swap data repository until the earlier of the price being determined and 11:59:59 p.m. eastern time on the execution date. If the price of a publicly reportable swap transaction that is a post-priced swap is not determined by 11:59:59 p.m. eastern time on the execution date, the reporting counterparty shall report to a swap data repository by 11:59:59 p.m. eastern time on the execution date all swap transaction and pricing data for such post-priced swap other than the price and any other then-undetermined swap transaction and pricing data and shall report each such item of previously undetermined swap transaction and pricing data as soon as technologically practicable after such item is determined.

(ii) *Other economic terms.* The post-priced swap reporting delay set forth in paragraph (a)(4)(i) of this section does not apply to publicly reportable swap transactions with respect to which the price is known at execution but one or more other economic or other terms are not yet known at the time of execution.

(5) *Clearing swaps.* Notwithstanding the provisions of paragraphs (a)(1) through (3) of this section, if a clearing swap, as defined in § 45.1(a) of this chapter, is a publicly reportable swap transaction, the derivatives clearing organization that is a party to such swap shall be the reporting counterparty and shall fulfill all reporting counterparty obligations for such swap as soon as technologically practicable after execution.

(6) *Mirror swaps.* (i) A mirror swap is not a publicly reportable swap transaction. Execution of a trigger swap, for purposes of determining when execution occurs under paragraphs (a)(1) through (3) of this section, shall be deemed to occur at the time of the pricing event for such trigger swap.

(ii) If, with respect to a given set of swaps, it is unclear which are mirror swaps and which is the related trigger

swap (including, but not limited to, situations where there is more than one prime broker counterparty within such set of swaps and situations where the pricing event for each set of swaps occurs between prime brokerage agents of a common prime broker), the prime brokers shall determine which swap is the trigger swap and which are mirror swaps. With respect to a trigger swap to which a prime broker is a party, the counterparty that falls within the highest level of the reporting counterparty determination hierarchy set forth in paragraph (a)(3) of this section is the reporting counterparty; if both counterparties fall within the same level of that hierarchy, they shall determine who is the reporting counterparty for such trigger swap pursuant to paragraph (a)(3)(iii), (iv), or (v) of this section, as applicable. Notwithstanding the foregoing, if the counterparty to a trigger swap that is not a prime broker is a swap dealer, then that counterparty shall be the reporting counterparty for the trigger swap.

(iii) If, with respect to a given set of swaps, it is clear which are mirror swaps and which is the related trigger swap, the reporting counterparty for the trigger swap shall be determined pursuant to paragraph (a)(3) of this section.

(iv) Trigger swaps described in paragraphs (a)(6)(ii) and (iii) of this section shall be reported pursuant to the requirements set out in paragraphs (a)(2) or (3) of this section, as applicable, except that the provisions of paragraph (a)(6)(ii) of this section, rather than the provisions of paragraph (a)(3) of this section, shall govern the determination of the reporting counterparty for purposes of the trigger swaps described in paragraph (a)(6)(ii) of this section.

(7) *Third-party facilitation of data reporting.* Any person required by this part to report swap transaction and pricing data, while remaining fully responsible for reporting as required by this part, may contract with a third-party service provider to facilitate reporting.

(b) *Public dissemination of swap transaction and pricing data by swap data repositories in real-time*—(1) *In general.* A swap data repository shall publicly disseminate swap transaction and pricing data as soon as technologically practicable after such data is received from a swap execution facility, designated contract market, or reporting counterparty, unless such swap transaction and pricing data is subject to a time delay described in § 43.5, in which case the swap transaction and pricing data shall be publicly disseminated in the manner described in § 43.5.

(2) *Compliance with 17 CFR part 49.* Any swap data repository that accepts and publicly disseminates swap transaction and pricing data in real-time shall comply with part 49 of this chapter.

(3) *Prohibitions on disclosure of data.* (i) If there is a swap data repository for an asset class, a swap execution facility or designated contract market shall not disclose swap transaction and pricing data relating to publicly reportable swap transactions in such asset class, prior to the public dissemination of such data by a swap data repository unless:

(A) Such disclosure is made no earlier than the transmittal of such data to a swap data repository for public dissemination;

(B) Such disclosure is only made to market participants on such swap execution facility or designated contract market;

(C) Market participants are provided advance notice of such disclosure; and

(D) Any such disclosure by the swap execution facility or designated contract market is non-discriminatory.

(ii) If there is a swap data repository for an asset class, a swap dealer or major swap participant shall not disclose swap transaction and pricing data relating to publicly reportable swap transactions in such asset class, prior to the public dissemination of such data by a swap data repository unless:

(A) Such disclosure is made no earlier than the transmittal of such data to a swap data repository for public dissemination;

(B) Such disclosure is only made to the customer base of such swap dealer or major swap participant, including parties who maintain accounts with or have been swap counterparties with such swap dealer or major swap participant;

(C) Swap counterparties are provided advance notice of such disclosure; and

(D) Any such disclosure by the swap dealer or major swap participant is non-discriminatory.

(4) *Acceptance and public dissemination of all swaps in an asset class.* Any swap data repository that accepts and publicly disseminates swap transaction and pricing data in real-time for swaps in its selected asset class shall accept and publicly disseminate swap transaction and pricing data in real-time for all publicly reportable swap transactions within such asset class, unless otherwise prescribed by the Commission.

(5) *Annual independent review.* Any swap data repository that accepts and publicly disseminates swap transaction and pricing data in real-time shall perform, on an annual basis, an independent review in accordance with established audit procedures and standards of the swap data repository's operations, security, and other system controls for the purpose of ensuring compliance with the requirements in this part.

(c) *Availability of swap transaction and pricing data to the public.* (1) Swap data repositories shall make swap transaction and pricing data available on their websites for a period of time that is at least one year after the initial public dissemination of such data and shall make instructions freely available on their websites on how to download, save, and search such data.

(2) Swap transaction and pricing data that is publicly disseminated pursuant to this part shall be made available free of charge.

(d) *Data reported to swap data repositories.* (1) In reporting swap transaction and pricing data to a swap data repository, each reporting counterparty, swap execution facility, or designated contract market shall report the swap transaction and pricing data elements in appendix C of this part in the form and manner provided in the technical specifications published by the Commission pursuant to § 43.7.

(2) In reporting swap transaction and pricing data to a swap data repository, each reporting counterparty, swap execution facility, or designated contract market making such report shall satisfy the data validation procedures of the swap data repository.

(3) In reporting swap transaction and pricing data to a swap data repository, each reporting counterparty, swap execution facility, or designated contract market shall use the facilities, methods, or data standards provided or required by the swap data repository to which the entity or reporting counterparty reports the data.

* * * * *

(f) *Data Validation Acceptance Message.* (1) A swap data repository shall validate each swap transaction and pricing data report submitted to the swap data repository and notify the reporting counterparty, swap execution facility, or designated contract market submitting the report whether the report satisfied the data validation procedures of the swap data repository as soon as technologically practicable after accepting the swap transaction and pricing data report. A swap data repository may satisfy the requirements of this paragraph by transmitting data validation acceptance messages as required by § 49.10 of this chapter.

(2) If a swap transaction and pricing data report submitted to a swap data repository does not satisfy the data validation procedures of the swap data repository, the reporting counterparty, swap execution facility, or designated contract market required to submit the report has not satisfied its obligation to report swap transaction and pricing data in the manner provided by paragraph (d) of this section. The reporting counterparty, swap execution facility, or designated contract market has not satisfied its obligation until it submits the swap transaction and pricing data report in the manner provided by paragraph (d) of this section, which includes the requirement to satisfy the data validation procedures of the swap data repository.

(g) *Fees.* Any fee or charge assessed on a reporting counterparty, swap execution facility, or designated contract market by a swap data repository that accepts and publicly disseminates swap transaction and pricing data in real-time for the collection of such data shall be equitable and non-discriminatory. If such swap data repository allows a fee discount based on the volume of data reported to it for public dissemination, then such discount shall be made available to all reporting counterparties, swap execution facilities, and designated contract markets in an equitable and non-discriminatory manner.

■ 5. Revise § 43.4 to read as follows:

§ 43.4 Swap transaction and pricing data to be publicly disseminated in real-time.

(a) *Public dissemination of data fields.* Any swap data repository that accepts and publicly disseminates swap transaction and pricing data in real-time shall publicly disseminate the information for the swap transaction and pricing data elements in appendix C of this part in the form and manner provided in the technical specifications published by the Commission pursuant to § 43.7.

(b) *Additional swap information.* A swap data repository that accepts and publicly disseminates swap transaction and pricing data in real-time may require reporting counterparties, swap execution facilities, and designated contract markets to report to such swap data repository information necessary to compare the swap transaction and pricing data that was publicly disseminated in real-time to the data reported to a swap data repository pursuant to section 2(a)(13)(G) of the Act or to confirm that parties to a swap have reported in a timely manner pursuant to § 43.3. Such additional information shall not be publicly disseminated by the swap data repository.

(c) *Anonymity of the parties to a publicly reportable swap transaction*—(1) *In general.* Swap transaction and pricing data that is publicly disseminated in real-time shall not disclose the identities of the parties to the swap or otherwise facilitate the identification of a party to a swap. A swap data repository that accepts and publicly disseminates swap transaction and pricing data in real-time shall not publicly disseminate such data in a manner that discloses or otherwise facilitates the identification of a party to a swap.

(2) *Actual product description reported to swap data repository.* Reporting counterparties, swap execution facilities, and designated contract markets shall provide a swap data repository with swap transaction and pricing data that includes an actual description of the underlying asset(s). This requirement is separate from the requirement that a reporting counterparty, swap execution facility, or designated contract market shall report swap data to a swap data repository pursuant to section 2(a)(13)(G) of the Act and the Commission's regulations.

(3) *Public dissemination of the actual description of underlying asset(s).* Notwithstanding the anonymity protection for certain swaps in the other commodity asset class in paragraph (c)(4) of this section, a swap data repository shall publicly disseminate the actual underlying asset(s) of all publicly reportable swap transactions in the interest rate, credit, equity, and foreign exchange asset classes.

(4) *Public dissemination of the underlying asset(s) for certain swaps in the other commodity asset class.* A swap data repository shall publicly disseminate swap transaction and pricing data for publicly reportable swap transactions in the other commodity asset class by limiting the geographic detail of the underlying asset(s). The identification of any specific delivery point or pricing point associated with the underlying asset of such other commodity swap shall be publicly disseminated pursuant to appendix B of this part.

(d) *Reporting of notional or principal amounts to a swap data repository*—(1) *Off-facility swaps.* The reporting counterparty shall report the actual notional or principal amount of any publicly reportable swap transaction that is an off-facility swap to a swap data repository that accepts and publicly disseminates such data pursuant to this part.

(2) *Swaps executed on or pursuant to the rules of a swap execution facility or designated contract market.* (i) A swap execution facility or designated contract market shall report the actual notional or principal amount for all swaps executed on or pursuant to the rules of such swap execution facility or designated contract market to a swap data repository that accepts and publicly disseminates such data pursuant to this part.

(ii) The actual notional or principal amount for any block trade executed on or pursuant to the rules of a designated contract market shall be reported to the designated contract market pursuant to the rules of the designated contract market.

(e) *Public dissemination of notional or principal amounts.* The notional or principal amount of a publicly reportable swap transaction shall be publicly disseminated by a swap data repository subject to rounding as set forth in paragraph (f) of this section, and the cap size as set forth in paragraph (g) of this section.

(f) *Process to determine appropriate rounded notional or principal amounts.* (1) If the notional or principal amount is less than one thousand, round to nearest five, but in no case shall a publicly disseminated notional or principal amount be less than five;

(2) If the notional or principal amount is less than 10 thousand but equal to or greater than one thousand, round to nearest one hundred;

(3) If the notional or principal amount is less than 100 thousand but equal to or greater than 10 thousand, round to nearest one thousand;

(4) If the notional or principal amount is less than one million but equal to or greater than 100 thousand, round to nearest 10 thousand;

(5) If the notional or principal amount is less than 100 million but equal to or greater than one million, round to the nearest one million;

(6) If the notional or principal amount is less than 500 million but equal to or greater than 100 million, round to the nearest 10 million;

(7) If the notional or principal amount is less than one billion but equal to or greater than 500 million, round to the nearest 50 million;

(8) If the notional or principal amount is less than 100 billion but equal to or greater than one billion, round to the nearest 100 million;

(9) If the notional or principal amount is equal to or greater than 100 billion, round to the nearest 10 billion.

(g) *Process to determine cap sizes.* (1) The Commission shall establish, by swap categories, the cap sizes as

described in paragraphs (g)(2) through (8) of this section.

(2) The Commission shall determine the cap sizes for the swap categories described in § 43.6(b)(1)(i), (b)(2)(i) through (vii), (b)(4)(i), and (b)(5)(i) by utilizing reliable data, as determined by the Commission, from at least a one-year window of swap data corresponding to each relevant swap category, and by applying the methodology described in § 43.6(c)(2).

(3) The Commission shall determine the cap size for a swap category in the foreign exchange asset class described in § 43.6(b)(4)(ii) as the lower of the notional amount of either currency's cap size for the swap category described in § 43.6(b)(4)(i).

(4) All swaps or instruments in the swap category described in § 43.6(b)(1)(ii) shall have a cap size of USD 100 million.

(5) All swaps or instruments in the swap category described in § 43.6(b)(2)(viii) shall have a cap size of USD 400 million.

(6) All swaps or instruments in the swap category described in § 43.6(b)(3) shall have a cap size of USD 250 million.

(7) All swaps or instruments in the swap category described in § 43.6(b)(4)(iii) shall have a cap size of USD 150 million.

(8) All swaps or instruments in the swap category described in § 43.6(b)(5)(ii) shall have a cap size of USD 100 million.

(9) Commission publication of cap sizes: The Commission shall publish any cap sizes determined pursuant to paragraph (g) of this section from time to time on its website at *https://www.cftc.gov.*

(10) Compliance date of cap sizes: Any cap sizes adopted by the Commission in a final rule amending this part shall require compliance as of the effective date of any such amendments to this part. Thereafter, unless otherwise indicated on the Commission's website, any revised cap size published by the Commission shall require compliance as of the first day of the second month following the date of publication of the revised cap size.

■ 6. Revise § 43.5 to read as follows:

§ 43.5 Time delays for public dissemination of swap transaction and pricing data.

(a) *In general.* The time delay for the real-time public dissemination of a block trade begins upon execution, as defined in § 43.2(a). It is the responsibility of the swap data repository that accepts and publicly disseminates swap transaction and pricing data in real-time to ensure that the swap transaction and pricing data for block trades is publicly disseminated pursuant to this part upon the expiration of the appropriate time delay described in paragraph (c) of this section.

(b) *Public dissemination of publicly reportable swap transactions subject to a time delay.* A swap data repository shall publicly disseminate swap transaction and pricing data that is subject to a time delay precisely upon the expiration of the time delay period described in paragraph (c) of this section.

(c) *Time delay.* If a swap data repository receives notice of a block trade election under § 43.6(f)(1)(ii) or (f)(2), the block trade that is the subject of such notice shall receive a time delay in the public dissemination of swap transaction and pricing data equal to 48 hours after execution of such publicly reportable swap transaction.

■ 7. Revise § 43.6 to read as follows:

§ 43.6 Block trades.

(a) *Commission determination.* The Commission shall establish the appropriate minimum block size for publicly reportable swap transactions based on the swap categories set forth in paragraph (b) of this section in accordance with the provisions set forth in paragraph (c), (d), (e), or (g) of this section, as applicable, at such times the Commission determines necessary.

(b) *Swap categories.* Swap categories shall be established for all swaps, by asset class, in the following manner:

(1) *Interest rate asset class.* Swaps in the interest rate asset class shall be grouped into swap categories as follows:

(i) Based on a unique combination of:

(A) A currency of one of the following countries or union:

(*1*) Australia,
(*2*) Brazil,
(*3*) Canada,
(*4*) Chile,
(*5*) Czech Republic,
(*6*) The European Union,
(*7*) Great Britain,
(*8*) India,
(*9*) Japan,
(*10*) Mexico,
(*11*) New Zealand,
(*12*) South Africa,
(*13*) South Korea,
(*14*) Sweden, or
(*15*) The United States; and

(B) One of the following tenors:

(*1*) Zero to 46 days;
(*2*) Greater than 46 to 107 days;
(*3*) Greater than 107 to 198 days;
(*4*) Greater than 198 to 381 days;
(*5*) Greater than 381 to 746 days;
(*6*) Greater than 746 to 1,842 days;
(*7*) Greater than 1,842 to 3,668 days;
(*8*) Greater than 3,668 to 10,973 days; or
(*9*) Greater than 10,973 days and above.

(ii) Other interest rate swaps not covered in the paragraph (b)(1)(i) of this section.

(2) *Credit asset class.* Swaps in the credit asset class shall be grouped into swap categories as follows:

(i) Based on the CDXHY product type and a tenor greater than 1,477 days and less than or equal to 2,207 days;

(ii) Based on the iTraxx Europe product type and a tenor greater than 1,477 days and less than or equal to 2,207 days;

(iii) Based on the iTraxx Crossover product type and a tenor greater than 1,477 days and less than or equal to 2,207 days;

(iv) Based on the iTraxx Senior Financials product type and a tenor greater than 1,477 days and less than or equal to 2,207 days;

(v) Based on the CDXIG product type and a tenor greater than 1,477 days and less than or equal to 2,207 days;

(vi) Based on the CDXEmergingMarkets product type and a tenor greater than 1,477 days and less than or equal to 2,207 days;

(vii) Based on the CDMBX product type; and

(viii) Other credit swaps not covered in paragraphs (b)(2)(i)–(vii) of this section.

(3) *Equity asset class.* There shall be one swap category consisting of all swaps in the equity asset class.

(4) *Foreign exchange asset class.* Swaps in the foreign exchange asset class shall be grouped into swap categories as follows:

(i) By the unique currency combinations of the United States currency paired with a currency of one of the following countries or union: Argentina, Australia, Brazil, Canada, Chile, China, Colombia, the European Union, Great Britain, India, Indonesia, Japan, Malaysia, Mexico, New Zealand, Peru, Philippines, Russia, South Korea, or Taiwan.

(ii) By the unique currency pair consisting of two separate currencies from the following countries or union: Argentina, Australia, Brazil, Canada, Chile, China, Colombia, the European Union, Great Britain, India, Indonesia, Japan, Malaysia, Mexico, New Zealand, Peru, Philippines, Russia, South Korea, and Taiwan.

(iii) Other swap categories in the foreign exchange asset class not covered in paragraph (b)(4)(i) or (ii) of this section.

(5) *Other commodity asset class.* Swaps in the other commodity asset

class shall be grouped into swap categories as follows:

(i) For swaps that have a physical commodity underlier listed in appendix A of this part, by the relevant physical commodity underlier; or

(ii) Other commodity swaps that are not covered in paragraph (b)(5)(i) of this section.

(c) *Methodologies to determine appropriate minimum block sizes and cap sizes.* In determining appropriate minimum block sizes and cap sizes for publicly reportable swap transactions, the Commission shall utilize the following statistical calculations—

(1) *67-percent notional amount calculation.* The Commission shall use the following procedure in determining the 67-percent notional amount calculation:

(i) For each relevant swap category, select all reliable SDR data for at least a one-year period;

(ii) Convert the notional amount to the same currency or units and use a trimmed data set;

(iii) Determine the sum of the notional amounts of swaps in the trimmed data set;

(iv) Multiply the sum of the notional amount by 67 percent;

(v) Rank order the observations by notional amount from least to greatest;

(vi) Calculate the cumulative sum of the observations until the cumulative sum is equal to or greater than the 67-percent notional amount calculated in paragraph (c)(1)(iv) of this section;

(vii) Select the notional amount associated with that observation;

(viii) Round the notional amount of that observation up to two significant digits, or if the notional amount associated with that observation is already significant to only two digits, increase that notional amount to the next highest rounding point of two significant digits; and

(ix) Set the appropriate minimum block size at the amount calculated in paragraph (c)(1)(viii) of this section.

(2) *75-percent notional amount calculation.* The Commission shall use the procedure set out in § 43.6(c)(1) with 75-percent in place of 67-percent.

(d) *No appropriate minimum block sizes for swaps in the equity asset class.* Publicly reportable swap transactions in the equity asset class shall not be treated as block trades.

(e) *Process to determine appropriate minimum block sizes.* (1) The Commission shall establish, by swap categories, the appropriate minimum block sizes as described in paragraphs (e)(2) through (5) of this section.

(2) The Commission shall determine the appropriate minimum block sizes for the swap categories described in paragraphs (b)(1)(i), (b)(2)(i) through (vii), (b)(4)(i), and (b)(5)(i) of this section by applying the methodology described in paragraph (c)(1) of this section.

(3) The parties to a swap in the foreign exchange asset class described in paragraph (b)(4)(ii) of this section may elect to receive block treatment if the notional amount of either currency in the exchange is greater than the minimum block size for a swap in the foreign exchange asset class between the respective currency, in the same amount, and U.S. dollars described in paragraph (b)(4)(i) of this section.

(4) All swaps or instruments in the swap category described in paragraphs (b)(1)(ii), (b)(2)(viii), (b)(4)(iii), and (b)(5)(ii) of this section shall have a block size of zero and be eligible to be treated as a block trade.

(5) *Commission publication of appropriate minimum block sizes.* The Commission shall publish the appropriate minimum block sizes determined pursuant to paragraph (e)(1) of this section on its website at *https://www.cftc.gov.*

(f) *Required notification*—(1) *Block trades on the trading system or platform, that is not an order book as defined in § 37.3(a)(3) of a swap execution facility, or pursuant to the rules of a swap execution facility or designated contract market.* (i) The parties to a publicly reportable swap transaction that is executed on the trading system or platform, that is not an order book as defined in § 37.3(a)(3) of this chapter of a swap execution facility, or pursuant to the rules of a swap execution facility or designated contract market and that has a notional amount at or above the appropriate minimum block size may elect to have the publicly reportable swap transaction treated as a block trade. If the parties make such an election, the reporting counterparty shall notify the swap execution facility or designated contract market, as applicable, of the parties' election.

(ii) The swap execution facility or designated contract market, as applicable, shall notify the swap data repository of such a block trade election when reporting the swap transaction and pricing data to such swap data repository in accordance with this part.

(iii) The swap execution facility or designated contract market, as applicable, shall not disclose swap transaction and pricing data relating to a block trade subject to the block trade election prior to the expiration of the applicable delay set forth in § 43.5(c).

(2) *Block trade off-facility swap election.* The parties to a publicly reportable swap transaction that is an off-facility swap and that has a notional amount at or above the appropriate minimum block size may elect to have the publicly reportable swap transaction treated as a block trade. If the parties make such an election, the reporting counterparty for such publicly reportable swap transaction shall notify the applicable swap data repository of the reporting counterparty's election when reporting the swap transaction and pricing data in accordance with this part.

(g) *Special provisions relating to appropriate minimum block sizes and cap sizes.* The following special rules shall apply to the determination of appropriate minimum block sizes and cap sizes—

(1) *Swaps with optionality.* The notional amount of a swap with optionality shall equal the notional amount of the component of the swap that does not include the option component.

(2) *Swaps with composite reference prices.* The parties to a swap transaction with composite reference prices may elect to apply the lowest appropriate minimum block size or cap size applicable to one component reference price's swap category of such publicly reportable swap transaction.

(3) *Notional amounts for physical commodity swaps.* Unless otherwise specified in this part, the notional amount for a physical commodity swap shall be based on the notional unit measure utilized in the related futures contract or the predominant notional unit measure used to determine notional quantities in the cash market for the relevant, underlying physical commodity.

(4) *Currency conversion.* Unless otherwise specified in this part, when the appropriate minimum block size or cap size for a publicly reportable swap transaction is denominated in a currency other than U.S. dollars, parties to a swap and registered entities may use a currency exchange rate that is widely published within the preceding two business days from the date of execution of the swap transaction in order to determine such qualification.

(5) *Aggregation.* The aggregation of orders for different accounts in order to satisfy the minimum block trade size or the cap size requirement is permitted for publicly reportable swap transactions only if each of the following conditions is satisfied:

(i) The aggregation of orders is done by a person who:

(A) Is a commodity trading advisor registered pursuant to section 4n of the Act, or exempt from such registration

under the Act, or a principal thereof, and who has discretionary trading authority or directs client accounts;

(B) Is an investment adviser who has discretionary trading authority or directs client accounts and satisfies the criteria of § 4.7(a)(2)(v) of this chapter; or

(C) Is a foreign person who performs a similar role or function as the persons described in paragraph (g)(5)(i)(A) or (B) of this section and is subject as such to foreign regulation;

(ii) The aggregated transaction is reported pursuant to this part and part 45 of this chapter as a block trade, subject to the cap size thresholds; and

(iii) The aggregated orders are executed as one swap transaction.

(h) *Eligible block trade parties.* (1) Parties to a block trade shall be ''eligible contract participants,'' as defined in section 1a(18) of the Act and the Commission's regulations. However, a designated contract market may allow:

(i) A commodity trading advisor registered pursuant to section 4n of the Act, or exempt from registration under the Act, or a principal thereof, and who has discretionary trading authority or directs client accounts,

(ii) An investment adviser who has discretionary trading authority or directs client accounts and satisfies the criteria of § 4.7(a)(2)(v) of this chapter, or

(iii) A foreign person who performs a similar role or function as the persons described in paragraph (h)(1)(i) or (ii) of this section and is subject as such to foreign regulation, to transact block trades for customers who are not eligible contract participants.

(2) A person transacting a block trade on behalf of a customer shall receive prior written instruction or consent from the customer to do so. Such instruction or consent may be provided in the power of attorney or similar document by which the customer provides the person with discretionary trading authority or the authority to direct the trading in its account.

■ 8. Amend § 43.7 by revising paragraphs (a)(1) through (3) and adding paragraph (a)(4) to read as follows:

§ 43.7 Delegation of authority.

(a) * * *

(1) To publish the technical specifications providing the form and manner for reporting and publicly disseminating the swap transaction and pricing data elements in appendix C of this part as described in §§ 43.3(d)(1) and 43.4(a);

(2) To determine cap sizes as described in § 43.4(g);

(3) To determine whether swaps fall within specific swap categories as described in § 43.6(b); and

(4) To determine and publish appropriate minimum block sizes as described in § 43.6(e).

* * * * *

■ 9. Revise appendix A to part 43 to read as follows:

Appendix A to Part 43—Other Commodity Swap Categories

Commodity: Metals

Aluminum
Copper
Gold
Lead
Nickel
Silver
Virtual
Zinc

Commodity: Energy

Electricity
Fuel Oil
Gasoline—RBOB
Heating Oil
Natural Gas
Oil

Commodity: Agricultural

Corn
Soybean
Coffee
Wheat
Cocoa
Sugar
Cotton
Soymeal
Soybean oil
Cattle
Hogs

■ 10. Revise appendix B to part 43 to read as follows:

Appendix B to Part 43—Other Commodity Geographic Identification for Public Dissemination Pursuant to § 43.4(d)(4)

Swap data repositories are required by § 43.4(d)(4) to publicly disseminate any specific delivery point or pricing point associated with publicly reportable swap transactions in the ''other commodity'' asset class pursuant to Tables B1 and B2 in this appendix. If the underlying asset of a publicly reportable swap transaction described in § 43.4(d)(4) has a delivery or pricing point that is located in the United States, such information shall be publicly disseminated pursuant to the regions described in Table B1 in this appendix. If the underlying asset of a publicly reportable swap transaction described in § 43.4(d)(4) has a delivery or pricing point that is not located in the United States, such information shall be publicly disseminated pursuant to the countries or sub-regions, or if no country or sub-region, by the other commodity region, described in Table B2 in this appendix.

Table B1. U.S. Delivery or Pricing Points

Other Commodity Group

Region

Natural Gas and Related Products

Midwest
Northeast
Gulf
Southeast
Western
Other—U.S.

Petroleum and Products

New England (PADD 1A)
Central Atlantic (PADD 1B)
Lower Atlantic (PADD 1C)
Midwest (PADD 2)
Gulf Coast (PADD 3)
Rocky Mountains (PADD 4)
West Coast (PADD 5)
Other—U.S.

Electricity and Sources

Florida Reliability Coordinating Council (FRCC)
Midwest Reliability Organization (MRO)
Northeast Power Coordinating Council (NPCC)
Reliability First Corporation (RFC)
SERC Reliability Corporation (SERC)
Southwest Power Pool, RE (SPP)
Texas Regional Entity (TRE)
Western Electricity Coordinating Council (WECC)
Other—U.S.

All Remaining Other Commodities (Publicly disseminate the region. If pricing or delivery point is not region-specific, indicate ''U.S.'')

Region 1—(Includes Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)
Region 2—(Includes New Jersey, New York)
Region 3—(Includes Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)
Region 4—(Includes Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)
Region 5—(Includes Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)
Region 6—(Includes Arkansas, Louisiana, New Mexico, Oklahoma, Texas)
Region 7—(Includes Iowa, Kansas, Missouri, Nebraska)
Region 8—(Includes Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)
Region 9—(Includes Arizona, California, Hawaii, Nevada)
Region 10—(Includes Alaska, Idaho, Oregon, Washington)

Table B2. Non-U.S. Delivery or Pricing Points

Other Commodity Regions

Country or Sub-Region

North America (Other than U.S.)

Canada
Mexico

Central America

South America

Brazil
Other South America

Europe

Western Europe
Northern Europe

Southern Europe
Eastern Europe (excluding Russia)

Russia

Africa

Northern Africa
Western Africa
Eastern Africa
Central Africa
Southern Africa

Asia-Pacific

Northern Asia (excluding Russia)
Central Asia
Eastern Asia
Western Asia
Southeast Asia
Australia/New Zealand/Pacific Islands

■ 11. Revise appendix C to part 43 to read as follows.

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Appendix C to Part 43 – Swap Transaction and Pricing Data Elements

#	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		Category: Clearing					
1	Cleared	Indicator of whether the transaction has been cleared, or is intended to be cleared, by a central counterparty.	✓	✓	✓	✓	✓
		Category: Custom baskets					
23	Custom basket indicator	Indicator that the swap is based on a custom basket.	✓	✓	✓	✓	✓
		Category: Events					
24	Action type	Type of action taken on the transaction reporting or end of day reporting. **New**: An action that reports a new swap transaction. It applies to the first message relating to a new USI or UTI. **Modify**: An action that modifies the state of a previously submitted transaction (e.g., credit event) or changes a term of a previously submitted transaction due to a newly negotiated modification (amendment) or updates previously missing information (e.g., post price swap). It does not include correction of a previous transaction. **Correct**: An action that corrects erroneous data of a previously submitted transaction. **Error**: An action of cancellation of a wrongly submitted entire transaction in case it never came into existence or was not subject to part 43/part 45 reporting requirements but was reported erroneously. **Terminate**: An action that closes an existing transaction because of a new event (e.g., Compression, Novation). This does not apply to transactions that terminate at contractual maturity date. **Port out**: An action that transfers swap transaction from one SDR to another SDR (change of swap data repository). **Valuation**: An update to valuation data. There will be no corresponding Event type. **Collateral**: An update to collateral margin data. There will be no corresponding Event type. Refer to Appendix F of the swap data technical specification for event model sample scenarios.	✓	✓	✓	✓	✓
25	Event type	Explanation or reason for the action being taken on the transaction reporting. **Trade**: A creation, modification, or termination of a transaction. **Novation**: A novation legally moves partial or all of the financial risks of a swap from a transferor to a transferee and has the effect of terminating/modifying the original transaction and creating a new transaction to identify the exposure between the transferor/transferee and remaining party. **Compression or Risk Reduction Exercise**: Compressions and risk reduction exercises generally have the effect of terminating or modifying (i.e., reducing the notional value) a set of existing transactions and of creating a set of new transaction(s). These processes result in largely the same	✓	✓	✓	✓	✓

#	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		exposure of market risk that existed prior to the event for the counterparty. **Early termination**: Termination of an existing swap transaction prior to scheduled termination or maturity date. **Clearing**: Central clearing is a process where a derivatives clearing organization interposes itself between counterparties to contracts, becoming the buyer to every seller and the seller to every buyer. It has the effect of terminating an existing transaction between the buyer and the seller and thereby ensuring the performance of open contracts. **Exercise**: The process by which a counterparty fully or partially exercises their rights specified in the contract of an option or a swaption. **Allocation**: The process by which an agent, having facilitated a single swap transaction on behalf of several clients, allocates a portion of the executed swap to the clients. **Clearing and Allocation:** A simultaneous clearing and allocation event in a derivatives clearing organization. **CDS Credit**: An event or trigger that results in the modification of the state of a previously submitted credit derivative transaction. Applies only to credit derivatives. **Porting**: The process by which a swap is transferred to another SDR that r has the effect of the closing of the swap transaction at one SDR or opening of the same swap transaction using the same UTI/USI in a different SDR (new).					
26	Event identifier	Unique identifier to link transactions resulting when Event type is either COMP (Compression) or CRDT (CDS Credit). The unique identifier may be assigned by the reporting counterparty or a service provider.	✓	✓	✓	✓	✓
27	Event timestamp	Date and time of occurrence of the event as determined by the reporting counterparty or a service provider. In the case of a clearing event, date and time when the original swap is accepted by the derivative clearing organization (DCO) for clearing and recorded by the DCO's system should be reported in this data element. The time element is as specific as technologically practicable.	✓	✓	✓	✓	✓
	Category: Notional amounts and quantities						
28	Notional amount	For each leg of the transaction, where applicable: - for OTC derivative transactions negotiated in monetary amounts, amount specified in the contract. - for OTC derivative transactions negotiated in non-monetary amounts, refer to Appendix B to the swap data technical specification for converting notional amounts for non-monetary amounts. In addition: • For OTC derivative transactions with a notional amount schedule, the initial notional amount, agreed by the counterparties at the inception of the transaction, is reported in this data element. • For OTC foreign exchange options, in addition to this data element, the amounts are reported using the data elements Call	✓	✓	✓	✓	✓

#	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		amount and Put amount. For amendments or lifecycle events, the resulting outstanding notional amount is reported; (steps in notional amount schedules are not considered to be amendments or lifecycle events); • Where the notional amount is not known when a new transaction is reported, the notional amount is updated as it becomes available.					
29	Notional currency	For each leg of the transaction, where applicable: currency in which the notional amount is denominated.	✓	✓	✓	✓	✓
31	Call amount	For foreign exchange options, the monetary amount that the option gives the right to buy.			✓		
32	Call currency	For foreign exchange options, the currency in which the Call amount is denominated.			✓		
33	Put amount	For foreign exchange options, the monetary amount that the option gives the right to sell.			✓		
34	Put currency	For foreign exchange options, the currency in which the Put amount is denominated.			✓		
35	Notional quantity	For each leg of the transaction, where applicable, for swap transactions negotiated in non-monetary amounts with fixed notional quantity for each schedule period (i.e., 50 barrels per month). The frequency is reported in Quantity frequency and the unit of measure is reported in Quantity unit of measure.					✓
36	Quantity frequency	The rate at which the quantity is quoted on the swap. e.g., hourly, daily, weekly, monthly.					✓
37	Quantity frequency multiplier	The number of time units for the Quantity frequency					✓
38	Quantity unit of measure	For each leg of the transaction, where applicable: unit of measure in which the Total notional quantity and Notional quantity are expressed.				✓	✓
39	Total notional quantity	For each leg of the transaction, where applicable: aggregate Notional quantity of the underlying asset for the term of the transaction. Where the Total notional quantity is not known when a new transaction is reported, the Total notional quantity is updated as it becomes available.				✓	✓
	Category: Packages						
40	Package identifier	Identifier (determined by the reporting counterparty) in order to connect • two or more transactions that are reported separately by the reporting counterparty, but that are negotiated together as the product of a single economic agreement. • two or more reports pertaining to the same transaction whenever jurisdictional reporting requirement does not allow the transaction to be reported with a single report to TRs. A package may include reportable and non-reportable transactions. This data element is not applicable • if no package is involved, or • to allocations	✓	✓	✓	✓	✓

#	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		Where the Package identifier is not known when a new transaction is reported, the Package identifier is updated as it becomes available.					
41	Package transaction price	Traded price of the entire package in which the reported derivative transaction is a component. This data element is not applicable if no package is involved. Prices and related data elements of the transactions (Price currency, Price notation, Price unit of measure) that represent individual components of the package are reported when available. The Package transaction price may not be known when a new transaction is reported but may be updated later.	✓	✓	✓	✓	✓
42	Package transaction price currency	Currency in which the Package transaction price is denominated. This data element is not applicable if: • no package is involved, or • Package transaction price notation = 3	✓	✓	✓	✓	✓
43	Package transaction price notation	Manner in which the Package transaction price is expressed. This data element is not applicable if no package is involved	✓	✓	✓	✓	✓
	Category: Payments						
44	Day count convention	For each leg of the transaction, where applicable: day count convention (often also referred to as day count fraction or day count basis or day count method) that determines how interest payments are calculated. It is used to compute the year fraction of the calculation period, and indicates the number of days in the calculation period divided by the number of days in the year.	✓	✓	✓	✓	✓
46	Floating rate reset frequency period	For each floating leg of the transaction, where applicable, time unit associated with the frequency of resets, e.g., day, week, month, year or term of the stream.	✓	✓	✓	✓	✓
47	Floating rate reset frequency period multiplier	For each floating leg of the transaction, where applicable, number of time units (as expressed by the Floating rate reset frequency period) that determines the frequency at which periodic payment dates for reset occur. For example, a transaction with reset payments occurring every two months is represented with a Floating rate reset frequency period of "MNTH" (monthly) and a Floating rate reset frequency period multiplier of 2. This data element is not applicable if the Floating rate reset frequency period is "ADHO." If Floating rate reset frequency period is "TERM," then the Floating rate reset frequency period multiplier is 1. If the reset frequency period is intraday, then the Floating rate reset frequency period is "DAIL" and the Floating rate reset frequency period multiplier is 0.	✓	✓	✓	✓	✓
48	Other payment type	Type of Other payment amount. Option premium payment is not included as a payment type as premiums for option are reported using the option premium dedicated data element.	✓	✓	✓	✓	✓
49	Other payment amount	Payment amounts with corresponding payment types to accommodate requirements of transaction descriptions from different asset classes.	✓	✓	✓	✓	✓

#	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
50	Other payment currency	Currency in which Other payment amount is denominated.	✓	✓	✓	✓	✓
54	Payment frequency period	For each leg of the transaction, where applicable: time unit associated with the frequency of payments, e.g., day, week, month, year or term of the stream.	✓	✓		✓	✓
55	Payment frequency period multiplier	For each leg of the transaction, where applicable: number of time units (as expressed by the Payment frequency period) that determines the frequency at which periodic payment dates occur. For example, a transaction with payments occurring every two months is represented with a Payment frequency period of "MNTH" (monthly) and a Payment frequency period multiplier of 2. This data element is not applicable if the Payment frequency period is "ADHO." If Payment frequency period is "TERM," then the Payment frequency period multiplier is 1. If the Payment frequency is intraday, then the Payment frequency period is "DAIL" and the Payment frequency multiplier is 0.	✓	✓		✓	✓
	Category: Prices						
56	Exchange rate	Exchange rate between the two different currencies specified in the OTC derivative transaction agreed by the counterparties at the inception of the transaction, expressed as the rate of exchange from converting the unit currency into the quoted currency. In the example 0.9426 USD/EUR, USD is the unit currency and EUR is the quoted currency; USD 1 = EUR 0.9426.			✓		
57	Exchange rate basis	Currency pair and order in which the exchange rate is denominated, expressed as unit currency/quoted currency. In the example 0.9426 USD/EUR, USD is the unit currency and EUR is the quoted currency, USD 1 = EUR 0.9426.			✓		
58	Fixed rate	For each leg of the transaction, where applicable: for OTC derivative transactions with periodic payments, per annum rate of the fixed leg(s).	✓	✓			✓
59	Post-priced swap indicator	An indication of whether a transaction satisfies the definition of "post-priced swap" in § 43.2(a).	✓	✓	✓	✓	✓
60	Price	Price specified in the OTC derivative transaction. It does not include fees, taxes or commissions. For commodity fixed/float swaps and similar products with periodic payments, this data element refers to the fixed price of the fixed leg(s). For commodity and equity forwards and similar products, this data element refers to the forward price of the underlying or reference asset. For equity swaps, portfolios swaps, and similar products, this data element refers to the initial price of the underlying or reference asset. For contracts for difference and similar products, this data element refers to the initial price of the underlier. This data element is not applicable to: • Interest rate swaps and forward rate agreements, as it is understood that the information included in the data elements Fixed rate and Spread may be interpreted as the price of the				✓	✓

#	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		transaction. • Interest rate options and interest rate swaptions as it is understood that the information included in the data elements Strike price and Option premium may be interpreted as the price of the transaction. • Commodity basis swaps and the floating leg of commodity fixed/float swaps as it is understood that the information included in the data element Spread may be interpreted as the price of the transaction. • Foreign exchange swaps, forwards and options, as it is understood that the information included in the data elements Exchange rate, Strike price, and Option premium may be interpreted as the price of the transaction. • Equity options as it is understood that the information included in the data elements Strike price and Option premium may be interpreted as the price of the transaction. • Credit default swaps and credit total return swaps, as it is understood that the information included in the data elements Fixed rate, Spread and Upfront payment (Other payment type: Upfront payment) may be interpreted as the price of the transaction. • Commodity options, as it is understood that the information included in the data elements Strike price and Option premium may be interpreted as the price of the transaction. Where the price is not known when a new transaction is reported, the price is updated as it becomes available. For transactions that are part of a package, this data element contains the price of the component transaction where applicable.					
61	Price currency	Currency in which the price is denominated. Price currency is only applicable if Price notation = 1.				✓	✓
62	Price notation	Manner in which the price is expressed.				✓	✓
63	Price unit of measure	Unit of measure in which the price is expressed.				✓	✓
64	Spread	For each leg of the transaction, where applicable: for OTC derivative transactions with periodic payments (e.g., interest rate fixed/float swaps, interest rate basis swaps, commodity swaps), • spread on the individual floating leg(s) index reference price, in the case where there is a spread on a floating leg(s). For example, USD-LIBOR-BBA plus .03 or WTI minus USD 14.65; or • difference between the reference prices of the two floating leg indexes. For example, the 9.00 USD "Spread" for a WCS vs. WTI basis swap where WCS is priced at 43 USD and WTI is priced at 52 USD.	✓	✓		✓	✓
65	Spread currency	For each leg of the transaction, where applicable: currency in which the spread is denominated. This data element is only applicable if Spread notation = 1.	✓	✓		✓	✓
66	Spread notation	For each leg of the transaction, where applicable: manner in which the spread is expressed.	✓	✓		✓	✓
67	Strike price	• For options other than FX options, swaptions and similar products, price at which the owner of an option can buy or sell the underlying asset of the option.	✓	✓	✓	✓	✓

#	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		• For foreign exchange options, exchange rate at which the option can be exercised, expressed as the rate of exchange from converting the unit currency into the quoted currency. In the example 0.9426 USD/EUR, USD is the unit currency and EUR is the quoted currency; USD 1 = EUR 0.9426. Where the strike price is not known when a new transaction is reported, the strike price is updated as it becomes available. • For volatility and variance swaps and similar products, the volatility strike price is reported in this data element.					
68	Strike price currency/currency pair	For equity options, commodity options, and similar products, currency in which the strike price is denominated. For foreign exchange options: Currency pair and order in which the strike price is expressed. It is expressed as unit currency/quoted currency. In the example 0.9426 USD/EUR, USD is the unit currency and EUR is the quoted currency, USD 1 = EUR 0.9426 Strike price currency/currency pair is only applicable if Strike price notation = 1.	✓	✓	✓	✓	✓
69	Strike price notation	Manner in which the strike price is expressed.	✓	✓	✓	✓	✓
70	Option premium amount	For options and swaptions of all asset classes, monetary amount paid by the option buyer. This data element is not applicable if the instrument is not an option or does not embed any optionality.	✓	✓	✓	✓	✓
71	Option premium currency	For options and swaptions of all asset classes, currency in which the option premium amount is denominated. This data element is not applicable if the instrument is not an option or does not embed any optionality.	✓	✓	✓	✓	✓
73	First exercise date	First unadjusted date during the exercise period in which an option can be exercised. For European-style options, this date is same as the Expiration date. For American-style options, the first possible exercise date is the unadjusted date included in the Execution timestamp. For knock-in options, where the first exercise date is not known when a new transaction is reported, the first exercise date is updated as it becomes available. This data element is not applicable if the instrument is not an option or does not embed any optionality.	✓	✓	✓	✓	✓
	Category: Product						
76	Index factor	The index version factor or percent, expressed as a decimal value, that multiplied by the Notional amount yields the notional amount covered by the seller of protection for credit default swap.	✓				
77	Embedded option type	Type of option or optional provision embedded in a contract.	✓	✓	✓	✓	✓
78	Unique Product Identifier UPI	A unique set of characters that represents a particular OTC derivative. The Commission will designate a UPI pursuant to § 45.7. Note: A Unique Product Identifier Short Name, defined as, 'When the Commission designates a UPI pursuant to part 45,	✓	✓	✓	✓	✓

#	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		disseminate a humanly readable description made available by the UPI issuer corresponding to the UPI' must be disseminated by the SDR.					
	Category: Settlement						
80	Settlement currency	Currency for the cash settlement of the transaction when applicable. For multi-currency products that do not net, the settlement currency of each leg. This data element is not applicable for physically settled products (e.g., physically settled swaptions).	✓	✓	✓	✓	✓
	Category: Transaction related						
82	Non-standardized term indicator	Indicator of whether the swap has one or more additional term(s) or provision(s), other than those disseminated to the public pursuant to part 43, that materially affect(s) the price of the swap.	✓	✓	✓	✓	✓
83	Block trade election indicator	Indicator of whether an election has been made to report the swap as a block swap either by the reporting counterparty or as calculated by the swap data repository acting as a third party for the reporting counterparty.	✓	✓	✓	✓	✓
84	Effective date	Unadjusted date at which obligations under the OTC derivative transaction come into effect, as included in the confirmation.	✓	✓	✓	✓	✓
85	Expiration date	Unadjusted date at which obligations under the swap transaction stop being effective, as included in the confirmation. Early termination does not affect this data element.	✓	✓	✓	✓	✓
86	Execution timestamp	Date and time a transaction was originally executed, resulting in the generation of a new UTI. This data element remains unchanged throughout the life of the UTI.	✓	✓	✓	✓	✓
88	Platform identifier	Identifier of the trading facility (e.g., exchange, multilateral trading facility, swap execution facility) on which the transaction was executed.	✓	✓	✓	✓	✓
90	Prime brokerage transaction indicator	Indicator of whether the swap is a Prime Brokerage transaction.	✓	✓	✓	✓	✓

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■ 12. Remove appendices D, E, and F.

Issued in Washington, DC, on February 27, 2020, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

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

Appendices to Real-Time Public Reporting Requirements—Commission Voting Summary and Commissioners' Statements

Appendix 1—Commission Voting Summary

On this matter, Chairman Tarbert and Commissioners Quintenz, Behnam, Stump, and Berkovitz voted in the affirmative. No Commissioner voted in the negative.

Appendix 2—Statement of Chairman Heath P. Tarbert

Data is the lifeblood of our markets. Yet for too long, market participants have been burdened with confusing and costly swap data reporting rules that do little to advance the Commission's regulatory functions. In the decade-long effort to refine our swap data rules, we have at times lost sight of Sir Isaac Newton's wisdom: ''Truth is ever to be found in simplicity, and not in the multiplicity and confusion of things.''

Overview

Simplicity should be a central goal of our swap data reporting rules. After all, making rules simple and clear facilitates compliance, price discovery, and risk monitoring. While principles-based regulation can offer numerous advantages, there are areas where a rules-based approach is preferable because of the level of clarity, standardization, and harmonization it provides. Swap data reporting is one such area.[1]

As it stands, swap data repositories (SDRs) and market participants have been left to wade through parts 43 and 45 of our rules on their own. We have essentially asked them to decide what to report to the CFTC, instead of being clear about what we want. The result is a proliferation of reportable data fields designed to ensure compliance with our rules—but which exceed what market participants can readily provide and what the agency can realistically use. These fields can run hundreds deep, imposing costly burdens on market participants. Yet for all its sprawling complexity, the current data reporting system omits, of all things, uncleared margin information—thereby

[1] *See* Heath P. Tarbert, *Rules for Principles and Principles for Rules: Tools for Crafting Sound Financial Regulation,* Harv. Bus. L. Rev. (forthcoming 2020) (''A principles-based regime is often a poor choice where standard forms and disclosures are heavily used, as principles do not offer the needed precision.'').

creating a black box of potential systemic risk.[2]

And that just describes CFTC reporting. As it stands today, a market participant with a swap reportable to the CFTC might also have to report the same swap to the SEC, the European Securities and Markets Authority (ESMA), and perhaps other regulators as well. The global nature of our derivatives markets has led to the preparation and submission of multiple swap data reports, creating a byzantine maze of disparate data fields and reporting timetables. Market participants should not incur the costs and burdens of reporting a grab-bag of dissimilar data for the very same swap. That approach helps neither the market nor the CFTC: Conflicting data reporting requirements make regulatory coordination more difficult, preventing a panoramic view of risk.

Today we take the first step toward changing this. I am pleased to support the proposed amendments to parts 43 and 45 of the CFTC's rules governing swap data reporting.[3] The proposals simplify the swap data reporting process to ensure that market participants are not burdened with unclear or duplicative reporting obligations that do little to reduce market risk or facilitate price discovery. If the amendments are adopted, we will no longer collect data that does not advance our oversight of the swaps markets.

In fact, the part 45 proposal includes a technical specification that identifies 116 standardized data fields that will help replace the many hundreds of fields now in use by SDRs. We are also proposing to harmonize our swap data reporting requirements with those of the SEC and ESMA. Harmonization would remove the burdens of duplicative reporting while painting a more complete picture of market risk. At the same time, the proposed changes to Part 43 would enhance public transparency as well as provide relief for end users who rely on our markets to hedge their risks. Our swaps markets are integrated and global; it is time for our reporting regime to catch up.

Simplified Reporting

Today's proposals advance my first strategic goal for our agency: Strengthening the resilience and integrity of our derivatives markets while fostering their vibrancy.[4] Simplified reporting is critical to the CFTC's ability to monitor systemic risk. While SDRs now require hundreds of data fields in an effort to comply with parts 43 and 45 of our rules, uncleared margin has been noticeably absent. If finalized, part 45 will require the reporting of uncleared margin data for the first time. This will significantly expand our visibility into potential systemic risk in the swaps markets.

A related problem we address today involves inconsistent data. SDRs currently validate swap transaction data in conflicting ways, causing market participants to report disparate data elements to different SDRs. Today's proposals include guidance to help SDRs standardize their validation of swap data reports, shoring up the resilience and integrity of our markets.

Simplifying the reporting process will also enhance the regulatory experience for market participants at home and abroad, which is another strategic goal for the agency.[5] We have heard from those who use our markets that the complexity of our existing reporting rules creates confusion, leading to reporting errors.[6] This situation neither serves the markets nor advances the agency's regulatory purpose. Indeed, data errors can frustrate transparency and price discovery.

Our proposals today reflect a hard look at the data we are requesting and the data we really need. The proposals provide the guidance needed to collapse hundreds of reportable data fields into a standardized set of 116 that truly advance our regulatory objectives. If adopted, this would reduce burdens on market participants and provide technical guidance to ensure they are no longer guessing at what we require. Clear rules are easier to follow, and market participants will no longer be subject to reporting obligations that raise the costs of compliance without improving the resilience and integrity of our derivatives markets. Just as we are reducing requirements where they are not needed, we are also enhancing them where they are. This is the balanced approach sound regulation demands.

Regulatory Harmonization

Today's proposals also improve the regulatory experience by harmonizing swap data reporting where it is sensible to do so.[7] There is no good reason for a swap dealer or other market participant to report hundreds of differing data fields to multiple jurisdictions for the very same swap transaction. This situation imposes high costs with very little benefit.

While we should not harmonize for the sake of harmonizing,[8] we can reap real efficiencies by carefully building consistent data reporting frameworks. The proposals would harmonize our swap data reporting timelines with the SEC by moving to a ''T+1'' system for swap dealers, major swap participants, and derivatives clearing organizations. We would also remove duplicative confirmation data and lift the requirement that end users provide valuation data.

Harmonization also helps the CFTC realize our vision of being the global standard for sound derivatives regulation.[9] We have long been a leader in international swap data harmonization efforts, including by co-chairing the Committee on Payments and Infrastructures and the International Organization of Securities Commissioners (CPMI–IOSCO) working group on critical data elements (CDE) in swap reporting.[10] The purpose of the working group is to standardize CDE fields to facilitate consistent data reporting across borders. Our proposals today would bring this and related harmonization efforts to fruition by incorporating many of the CDE fields and a limited number of CFTC-specific fields into new part 45 technical specifications. Incorporating the CDE fields would sensibly harmonize our reporting system with that of ESMA. As a result, the proposals would advance the CFTC's important role in bringing global regulators together to form a better data reporting system.

The proposals also would harmonize swap data reporting in several other important respects. First, we propose adopting a Unique Transaction Identifier (UTI) requirement in place of the existing Unique Swap Identifier (USI) system, as provided for in the CPMI–IOSCO Technical Guidance.[11] Adopting a UTI system would provide for consistent monitoring of swaps across borders, improving data sharing and risk surveillance. The proposals would also remove the requirement that market participants report duplicative creation and confirmation data, and would adopt reporting timetables that are consistent with those of ESMA and other regulators.[12] These are reasonable efforts that will improve the reporting process, while

[2] Requiring margin in the uncleared swaps markets ensures that counterparties have the necessary collateral to offset losses, preventing financial contagion. With respect to non-cleared, bilateral swaps, in which there is no central clearinghouse, parties bear the risk of counterparty default. In turn, the CFTC must have visibility into uncleared margin data to monitor systemic risk accurately and to act quickly if cracks begin appear in the system.

[3] We are also re-opening the comment period for part 49, which relates to SDR registration and governance.

[4] *See* Remarks of CFTC Chairman Heath P. Tarbert to the 35th Annual FIA Expo 2019 (Oct. 30, 2019), available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/opatarbert2* (announcing the core value of ''clarity'' and defining it as ''providing transparency to market participants about our rules and processes'').

[5] *See id.* (identifying the CFTC's strategic goals).

[6] The problem is compounded by the allowance for ''catch-all'' voluntary reporting, which creates incentives for market participants to flood the CFTC with any data that might possibly be required. Paradoxically, this kitchen-sink approach can so muddy the water as to undermine a fundamental purpose of data reporting: To create a transparent picture of market risk.

[7] Harmonizing regulation is an important consideration in addressing our increasingly global markets. *See* Opening Statement of Chairman Heath P. Tarbert Before the Open Commission Meeting on October 16, 2019, available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/heathstatement101619* (''The global nature of today's derivatives markets requires that regulators work cooperatively to ensure the success of the G20 reforms, foster economic growth, and promote financial stability.'').

[8] *Id.* (''To be sure, as my colleagues have said on several occasions, we should not harmonize with the SEC merely for the sake of harmonization. I agree that we should harmonize only if it is sensible.'').

[9] *See* CFTC Vision Statement, available at *https://www.cftc.gov/About/Mission/index.htm.*

[10] The CFTC also co-chaired the Financial Stability Board's working group on UTI and UPI governance.

[11] The CPMI–IOSCO harmonization group has requested that regulators implement UTI by December 31, 2020. I believe it is important for the CFTC to meet this deadline, which has long been public and reflects input from our staff. The remainder of our proposals today are subject to a 1-year implementation period.

[12] Today's proposals move to a ''T+1'' reporting deadline for swap dealers, major swap participants, and derivatives clearing organizations and to a ''T+2'' system for other market participants.

shoring up the CFTC's position as a leader on harmonization.

Enhanced Public Transparency

I am also pleased to support our proposals today because they enhance *clarity,* one of the four core values of our agency.[13] Streamlining the part 45 technical specification is intended, in part, to reduce unclear and confusing data reporting fields that do not advance our regulatory objectives. But clarity demands more: We must also ensure we are providing transparent, high-quality data to the public.[14]

Part 43 embodies our public reporting system for swap data, which provides high-quality information in real time. Providing transparent, timely swap data to the public is critically important to the price discovery process necessary for our markets to thrive and grow. Enhanced public transparency also ensures that market participants and end users can make informed trading and hedging decisions.

The CFTC's current system for public reporting is considered the global standard. Even so, it can be improved. Although post-priced swaps are subject to unique pricing factors that affect the ''public tape,'' [15] they are nonetheless reported after execution just like any other swap. It is of little value for the public to see swaps reported without an accurate price, or any price at all. To remedy this data quality issue and improve price discovery, we are proposing that post-priced swaps now be reported to the public tape after pricing occurs.

The current reporting system for prime broker swaps has led to data that distorts the picture of what is actually happening in the market. Currently, part 43 requires that offsetting swaps executed with prime brokers—in addition to the initial swap reflecting the actual terms of the trade between counterparties—be reported on the public tape. Reporting these duplicative swaps can hinder price discovery by displaying pricing data that includes fees and other costs unrelated to the actual terms of the parties' swap. Cluttering the public tape with duplicative swaps is at best unhelpful, and at worst confusing. To the public, it could appear as though there are twice as many negotiated, arms-length swaps as there actually are. Today's proposals would solve this problem by requiring that only the initial ''trigger'' swaps be publicly reported.

Relief for End Users

Finally, the proposals would help make our derivatives markets work for all Americans, another of the CFTC's strategic goals.[16] While swaps are viewed by many Americans as esoteric products, they can nonetheless fulfill an important risk-management function for end users like farmers, ranchers, and manufacturers. End users often lack the reporting infrastructure of big banks, and may be unable to report data as quickly as swap dealers and financial institutions. Indeed, demanding that they do so can impair data quality, frustrating our regulatory objectives.

If finalized, today's proposals will no longer require end users to report swap valuation data. It would also give them a ''T+2'' timeframe for reporting the data we do require. The proposals would therefore remove unnecessary reporting burdens from end users relying on our swaps markets to hedge their risks. In addition, by providing sufficient time for end users to ensure their reporting is accurate, the proposals would also improve the quality of data we receive.

Conclusion

It is time for the Commission to reform our swap data reporting rules. Sir Isaac Newton realized long ago that simplicity can often lead to truth. It does not take an apple striking us on the head to realize that simplifying our swap data reporting rules to achieve clarity, standardization, and harmonization will inevitably make for sounder regulation.

Appendix 3—Concurring Statement of Commissioner Rostin Behnam

I respectfully concur in the Commission's proposal to amend certain real-time public reporting requirements. I support the Commission's ongoing review of its swap reporting rules; however, I think it is very important that we not lose sight of why we have these rules in the first place. Prior to the 2008 financial crisis, swaps were largely exempt from regulation and traded exclusively over-the-counter.[1] Lack of transparency in the over-the-counter swaps market contributed to the financial crisis because both regulators and market participants lacked the visibility necessary to identify and assess swaps market exposures and counterparty relationships and counterparty credit risk.[2] In the aftermath of the financial crisis, Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010 (Dodd-Frank Act).[3] The Dodd-Frank Act largely incorporated the international financial reform initiatives for over-the-counter derivatives laid out at the 2009 G20 Pittsburgh Summit, which sought to improve transparency, mitigate systemic risk, and protect against market abuse.[4] With respect to data reporting, the policy initiative developed by the G20 focused on establishing a consistent and standardized global data set across jurisdictions in order to support regulatory efforts to timely identify systemic risk. The critical need and importance of this policy goal given the consequences of the financial crisis cannot be understated.

Among many critically important statutory changes, which have shed light on the over-the-counter derivatives markets, Title VII of the Dodd-Frank Act amended the Commodity Exchange Act and added a new term to the Act: ''real-time public reporting.'' [5] The Act defines that term to mean reporting ''data relating to swap transaction, including price and volume, *as soon as technologically practicable* after the time at which the swap transaction has been executed.'' [6]

As we consider amending these rules, I think it is important that we keep in mind the Dodd-Frank Act's emphasis on transparency, and what transpired to necessitate that emphasis. While most of today's proposal encourages and supports the transparency required by the Act, I am concerned about the proposed amendments that would significantly extend the time delays for public dissemination of block trades. Currently, the time delay for public dissemination of block trades executed pursuant to the rules of a SEF or DCM is 15 minutes.[7] Today's proposal would extend the time delay to 48 hours for all block trades. I look forward to hearing from commenters as to whether this significant reduction in real-time transparency is justified, and whether there are potential risks to market structure efficiency that may reward some participants at the expense of others.

Appendix 4—Statement of Commissioner Dan M. Berkovitz

Introduction

I am voting to issue for public comment the proposed rulemaking that would amend certain rules requiring real-time public reporting of swap trades. The proposal is intended to enhance the existing real-time public reporting framework adopted in 2012. Although I am voting to issue the proposal for public comment, I do not support the provision in the proposal that would permit a 48-hour delay in the reporting of block trades. A 48-hour delay for all block trades is too long.

One of the primary goals of the Dodd-Frank Act is to bring transparency to opaque swap markets. In Commodity Exchange Act section 2(a)(13), Congress required the Commission to adopt real-time public reporting regulations. Congress stated that ''[t]he purpose of this section is to authorize the Commission to make swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate *to enhance price*

[13] *See* CFTC Core Values, available at *https://www.cftc.gov/About/Mission/index.htm.*

[14] One of the issues we are looking at closely is whether a 48-hour delay for block trade reporting is appropriate. We are hopeful that market participants will provide comment letters and feedback concerning the treatment of block trade delays.

[15] Many post-priced swaps are priced based on the equity markets, and do not have a known price until the equity markets close.

[16] *See* FIA Expo Remarks, *supra* note 5.

[1] *See* Commodity Futures Modernization Act of 2000, Public Law 106–554, 114 Stat. 2763 (2000).

[2] *See* The Financial Crisis Inquiry Commission, The Financial Crisis Inquiry Report: Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States (Official Government Edition), at 299, 352, 363–364, 386, 621 n. 56 (2011), *available at https://www.gpo.gov/fdsys/pkg/GPO-FCIC/pdf/GPO-FCIC.pdf.*

[3] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[4] G20, *Leaders' Statement, The Pittsburgh Summit* (Sept. 24–25, 2009) at 9, *available at https://www.treasury.gov/resource-center/international/g7-g20/Documents/pittsburgh_summit_leaders_statement_250909.pdf.*

[5] 7 U.S.C. 2(a)(13)(A).

[6] *Id.*

[7] 17 CFR 43.5(d)(2).

discovery.'' [1] Many of the provisions in the proposal will further that statutory purpose by improving the usability of the real-time public reporting occurring under the 2012 regulations.

The provisions permitting a delay of 48 hours in the reporting of block trades, however, could impede rather than foster price discovery. It also could undermine market integrity by providing counterparties to large swaps with an unfair information advantage. While an appropriate block trade reporting delay is mandated by statute to allow effective hedging of the position, the delay should be appropriately limited. I address this concern in greater detail below.

Intended Benefits of the Proposal

To effectively use real-time data for price discovery, market participants need to be able to compare data reported by the different swap data repositories and assess the validity of the data. Significantly, the proposal would require standardized data reporting using technical specifications and instructions that establish the form and manner in which the data must be reported. This approach promotes uniformity in the data across swap data repositories and reporting parties and thereby facilitates aggregation and validation.

Similarly, the proposal addresses several technical questions that arose during implementation of the 2012 rules that obscured effective price discovery. The issue of whether to report so-called ''mirror swaps'' executed under prime broker arrangements is addressed by eliminating duplicate reporting of the mirror swap after the ''trigger'' swap is reported. Duplicate reporting can create a false signal of swap trading volume and potentially obscure price discovery by giving the price reported for a single prime brokerage swap twice as much weight relative to other non-prime brokerage swaps. Similarly, issues involving pricing of certain types of swaps which, by their terms, are priced at a time after the swaps are executed would allow for more accurate price discovery—*i.e.* the price that is based on market conditions at the time the price is set.

Block Trade Reporting

The proposal also addresses the issue of block trade reporting. In this area, while the proposal would make a number of improvements, it also raises issues for which public input would be helpful. Congress directed the Commission to establish ''the appropriate time delay for reporting large notional swap transactions (block trades) to the public.'' [2] The proposal maintains the current framework for block trade reporting, but proposes a number of substantive changes to how the block size is set and when the trades must be reported.

Some of these changes are practical, data driven modifications. The proposal would change the categories of swaps for which different block trade sizes are established so that the block sizing applies to swap products that are comparable in how notional amounts and prices are set. This change was based on both comments received during implementation and on swap data analysis. This change would, if effective, enhance price discovery by eliminating the underreporting of categories of swap products that typically trade at notional levels in excess of the block size simply because they are, for example, in a different currency or trade in different quantities than is typical for the rest of the category to which they are compared. As I have said before, when available, data should be used by the Commission to establish regulations that serve the public policy goals set by Congress.

The proposal also would eliminate several block trade delay periods in the existing rule as short as 15 minutes and replace them with a single 48-hour delay period. This simplified approach to block trade reporting delays could harm price discovery and do so in a manner that is not supported by the need for a delay in block trade reporting. Under the proposal, fully one-third of all trades within a category could be block trades subject to reporting delays. Such a large carve-out from real-time reporting would harm price discovery and provide an unfair information advantage to swap dealers and other large counterparties.

The need for a 48-hour delay is not apparent. It is my understanding that for many block trades, the dealer seeking to hedge the block position will do so as soon as possible after the trade (if not before) and in most cases within the same trading session. The logic of this is obvious—waiting overnight to establish a hedge could destroy the profit and loss calculated when the block was executed as market prices move further away from the prices at the time the trade was executed. On the other hand, some small number of block trades, those of very large size or with complex features, may take 48 hours or more to hedge. The Commission should calibrate the delay periods accordingly.

I thank the CFTC staff for working with my office to add questions addressing this issue. The questions relating to proposed section 43.5 ask commenters to address whether these issues are of concern and whether the rule would benefit from having two delay periods, one shorter for ''smaller'' block trades and another for the largest block trades. I look forward to reviewing comments on this and other issues.

Conclusion

I commend all of the staff at the CFTC who worked on the reporting rules over the years. Getting swap reporting right is a difficult, but important function for the Commission. Improving price discovery through real-time public reporting serves a core CFTC mission. This proposal offers a number of pragmatic solutions to known issues with the current rule. These improvements, however, should not—and need not—come at the expense of market transparency and a level playing field.

[FR Doc. 2020–04405 Filed 4–16–20; 8:45 am]

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[1] CEA section 2(13)(B) (emphasis added).

[2] CEA section 2(13)(E)(iii).

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Part III

Commodity Futures Trading Commission

17 CFR Parts 45, 46, and 49

Swap Data Recordkeeping and Reporting Requirements; Proposed Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 45, 46, and 49

RIN 3038–AE31

Swap Data Recordkeeping and Reporting Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is proposing revisions to the Commission regulations that set forth the swap data recordkeeping and reporting requirements for swap data repositories (''SDRs''), derivatives clearing organizations (''DCOs''), swap execution facilities (''SEFs''), designated contract markets (''DCMs''), swap dealers (''SDs''), major swap participants (''MSPs''), and swap counterparties that are neither SDs nor MSPs. The Commission is proposing revisions that, among other things, streamline the requirements for reporting new swaps, define and adopt swap data elements that harmonize with international technical guidance, and reduce reporting burdens for reporting counterparties that are not SDs or MSPs.

DATES: Comments must be received on or before May 20, 2020.

ADDRESSES: You may submit comments, identified by RIN 3038–AE31, by any of the following methods:

- *CFTC Comments Portal: https://comments.cftc.gov.* Select the ''Submit Comments'' link for this rulemaking and follow the instructions on the Public Comment Form.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Follow the same instructions as for Mail, above. Please submit your comments using only one of these methods. Submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (''FOIA''), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of your submission from *www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Meghan Tente, Acting Associate Director, (202) 418–5785, *mtente@cftc.gov;* Richard Mo, Special Counsel, (202) 418–7637, *rmo@cftc.gov;* Thomas Guerin, Special Counsel, (202) 734–4194, *tguerin@cftc.gov,* Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; Kristin Liegel, Surveillance Analyst, (312) 596–0671, *kliegel@cftc.gov,* Division of Market Oversight, Commodity Futures Trading Commission, 525 West Monroe Street, Suite 1100, Chicago, Illinois 60661; Nancy Doyle, Senior Special Counsel, (202) 418–5136, *ndoyle@cftc.gov,* Office of International Affairs; Gloria Clement, Senior Special Counsel, (202) 418–5122, *gclement@cftc.gov;* John Coughlan, Research Economist, (202) 418–5944, *jcoughlan@cftc.gov,* Office of the Chief Economist, in each case at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

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I. Background and Introduction

A. Reporting Rules Review

The Commission's swap data reporting regulations were first adopted in 2012 and are located in part 45 of the Commission's regulations.[2] The regulations require swap counterparties, SEFs, and DCMs to report swap data to SDRs. In 2016, the Commission amended part 45 to clarify the reporting obligations for DCOs and swap counterparties with respect to cleared swaps.[3] In addition, throughout this time, the Commission has undertaken several efforts to identify, and made recommendations to resolve, swap reporting challenges faced by market participants.[4]

The Division of Market Oversight (''Division'' or ''DMO'') is currently completing an update of the swap reporting rules. On July 10, 2017, the Division announced its Roadmap to Achieve High Quality Swaps Data (''Roadmap''), consisting of a comprehensive review to: (i) Ensure that

[1] 17 CFR 145.9. Commission regulations referred to herein are found at 17 CFR chapter I.

[2] Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136 (Jan. 13, 2012).

[3] Amendments to Swap Data Recordkeeping and Reporting Requirements for Cleared Swaps, 81 FR 41736 (June 27, 2016).

[4] *See, e.g.,* Review of Swap Data Recordkeeping and Reporting Requirements, Request for Comment, 79 FR 16689 (Mar. 26, 2014); Press Release, CFTC Staff Issues Request for Comment on Draft Technical Specifications for Certain Swap Data Elements (Dec. 22, 2015), *available at https://www.cftc.gov/PressRoom/PressReleases/pr7298-15;* Press Release, CFTC Requests Public Input on Simplifying Rules (May 3, 2017), *available at https://www.cftc.gov/PressRoom/PressReleases/pr7555-17.*

the CFTC receives accurate, complete, and high quality data on swaps transactions for its regulatory oversight role; and (ii) streamline reporting, reduce messages that must be reported, and right-size the number of data elements that are reported to meet the agency's priority use-cases for swap data.[5]

The Commission received extensive feedback that addressed many swap reporting topics in response to DMO's Roadmap.[6] Informed by that feedback, the Commission is taking a stepwise approach to amend its rules through separate notices of proposed rulemaking (''NPRMs'') as part of the Roadmap review. First, in May 2019, the Commission published an NPRM to streamline and clarify the Commission's SDR regulations in parts 23, 43, 45, and 49 (the ''2019 Part 49 NPRM'').[7] Among other things, the 2019 Part 49 NPRM proposed modifications to the existing requirements for SDRs to confirm the accuracy of swap data with swap counterparties, and proposed requiring reporting counterparties to verify the accuracy of swap data with SDRs.

Now, in this release, the Commission is proposing revisions to the part 45 reporting regulations related to the following topics: Simplifying the requirements for reporting swaps; requiring SDRs to validate swap reports; permitting the transfer of swap data between SDRs; alleviating reporting burdens for non-SD/MSP reporting counterparties; and harmonizing the swap data elements counterparties report to SDRs with international technical guidance. The Commission will discuss each of these proposed changes in this release.

In addition, the Commission is proposing amendments to certain part 46 regulations for reporting pre-enactment swaps and transition swaps, primarily to conform to changes the Commission is proposing to part 45.[8] The Commission is also proposing amendments to certain regulations in part 49 that were not addressed in the 2019 Part 49 NPRM.[9] Most of the amendments the Commission is proposing to part 49 concern new requirements for SDRs, including proposed requirements to validate SDR data.[10]

The Commission appreciates the time commenters have taken to explain aspects of the reporting requirements that they believe the Commission could make more efficient. As discussed throughout this release, the Commission believes that the revisions proposed herein address many of these recommendations, as well as several major domestic and international swap reporting developments that have occurred since the Commission originally adopted part 45.

B. Statutory and Regulatory Framework for Swap Data Recordkeeping and Reporting

Pursuant to section 2(a)(13)(G) of the Commodity Exchange Act (''CEA''), all swaps, whether cleared or uncleared, must be reported to SDRs.[11] SDRs collect and maintain data related to swap transactions, keeping such data electronically available for regulators or the public.[12] CEA section 21(b) directs the Commission to prescribe standards for swap data recordkeeping and reporting, which are to apply to both registered entities and counterparties involved with swaps, and be comparable to standards for clearing organizations in connection with clearing of swaps.[13] CEA sections 4r(a)(2)(A) and 2(h)(5) provide for the reporting of pre-enactment and transition swaps.[14]

In 2011, the Commission adopted the part 49 regulations setting forth the specific duties that SDRs are required to comply with to register as an SDR.[15] In 2012, the Commission adopted the part 45 regulations to implement standards for swap data reporting and recordkeeping [16] and the part 46 regulations to implement standards for pre-enactment and transition swap recordkeeping and reporting.[17] In 2016, the Commission amended part 45 to clarify the reporting obligations for cleared swaps.[18]

The Commission will discuss relevant sections of the current parts 45, 46, and 49 regulations throughout this release.

C. International Swap Data Reporting Developments

In response to the financial crisis in 2009, the G20 leaders agreed that all over-the-counter (''OTC'') derivatives should be reported to trade repositories (''TRs'') [19] to further the goals of improving transparency, mitigating systemic risk, and preventing market abuse. Since November 2014, regulators across major derivatives jurisdictions, including the CFTC, have come together through the Committee on Payments and Market Infrastructures (''CPMI'') and the International Organization of Securities Commissions (''IOSCO'') working group for the harmonization of key OTC derivatives data elements (''Harmonisation Group'') to develop global guidance regarding the definition, format, and usage of key OTC derivatives data elements reported to TRs, including the Unique Transaction Identifier (''UTI''), the Unique Product Identifier (''UPI''), and critical data elements other than UTI and UPI (''CDE'').

The Harmonisation Group published *Guidance on the Harmonisation of the Unique Transaction Identifier* (''UTI Technical Guidance'') [20] in February

[5] *See* CFTC Letter 17–33, Division of Market Oversight Announces Review of Swap Reporting Rules in Parts 43, 45, and 49 of Commission Regulations (July 10, 2017), *available at https://www.cftc.gov/idc/groups/public/@lrlettergeneral/documents/letter/17-33.pdf;* Roadmap to Achieve High Quality Swap Data, *available at https://www.cftc.gov/idc/groups/public/@newsroom/documents/file/dmo_swapdataplan071017.pdf.*

[6] Comment letters are available at *https://comments.cftc.gov/PublicComments/CommentList.aspx?id=1824.* The Commission will discuss comment letters in the relevant sections throughout this release.

[7] *See* Certain Swap Data Repository and Data Reporting Requirements, 84 FR 21044 (May 13, 2019).

[8] *See generally* 17 CFR part 46.

[9] *See generally* 17 CFR part 49.

[10] The new requirements proposed for SDRs to validate swap data in § 49.10 are discussed in section IV.C.3 below. The Commission has proposed to define the term ''SDR data'' in the 2019 Part 49 NPRM. As proposed, ''SDR data'' would mean the specific data elements and information required to be reported to an SDR or disseminated by an SDR, pursuant to two or more of parts 43, 45, 46, and/or 49, as applicable. *See* 2019 Part 49 NPRM at 21047, 21101.

[11] 7 U.S.C. 2(a)(13)(g).

[12] The term ''swap data repository'' means any person that collects and maintains information or records with respect to transactions or positions in, or the terms and conditions of, swaps entered into by third parties for the purpose of providing a centralized recordkeeping facility for swaps. *See* 7 U.S.C. 1a(48). Regulations governing core principles and registration requirements for, and duties of, SDRs are in part 49 of the Commission's regulations. *See generally* 17 CFR part 49.

[13] *See* 7 U.S.C. 24a(b).

[14] *See* 7 U.S.C. 6r(a)(2)(A) and 7 U.S.C. 2(h)(5); *see also* 17 CFR 46.1 (defining ''pre-enactment swap'' as any swap entered into prior to enactment of the Dodd-Frank Act of 2010 (July 21, 2010), the terms of which have not expired as of the date of enactment of that Act, and ''transition swap'' as any swap entered into on or after the enactment of the Dodd-Frank Act of 2010 (July 21, 2010) and prior to the applicable compliance date on which a registered entity or swap counterparty subject to the jurisdiction of the Commission is required to commence full compliance with all provisions of part 46.

[15] *See generally* Swap Data Repositories: Registration Standards, Duties and Core Principles, 76 FR 54538 (Sept. 1, 2011).

[16] *See generally* Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136 (Jan. 13, 2012).

[17] *See generally* Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps, 77 FR 35200 (June 12, 2012).

[18] *See generally* Amendments to Swap Data Recordkeeping and Reporting Requirements for Cleared Swaps, 81 FR 41736 (June 27, 2016).

[19] *See https://www.treasury.gov/resource-center/international/g7-g20/Documents/pittsburgh_summit_leaders_statement_250909.pdf.* In the U.S., trade repositories are called SDRs.

[20] CPMI–IOSCO, Technical Guidance, Harmonisation of the Unique Transaction Identifier

Continued

2017 and *Technical Guidance on the Harmonisation of the Unique Product Identifier*[21] (''UPI Technical Guidance'') in September 2017.

The Commission currently requires that each swap subject to its jurisdiction be identified by a USI.[22] The UTI Technical Guidance, intended by CPMI–IOSCO to help authorities set rules for a uniform global UTI, provided guidance to authorities on the definition, format, generation, and usage of UTIs. Similarly, CPMI–IOSCO intends that the UPI Technical Guidance will result in a unique UPI code that will be assigned to each distinct OTC derivative product. The Commission's rules do not specify a standardized set of swap product data elements. The new CPMI–IOSCO UPI code will map to a set of data comprised of reference data elements with specific values that together describe the swap product.

In April 2018, the Harmonisation Group published *Technical Guidance on the Harmonisation of Critical OTC Derivatives Data Elements (other than UTI and UPI)* (''CDE Technical Guidance'').[23] The CDE Technical Guidance provides technical guidance on the definition, format, and allowable values of over 100 critical data elements, other than UTI and UPI, reported to TRs and important for data aggregation by authorities. The harmonized data elements in the CDE Technical Guidance cover data elements ranging from counterparty information, payments, and valuation and collateral to prices and quantities, package trades, and custom baskets.[24]

The Commission has played an active role in the development and publication of the CDE Technical Guidance as part of the CPMI–IOSCO working group, alongside representatives from Canada, France, Germany, Hong Kong, Japan, Singapore, and the United Kingdom, among others. Commission staff provided feedback about the data elements, taking into account the Commission's experience with swap data reporting and its use of such data in fulfilling its regulatory responsibilities. Commission staff also participated in the solicitation of responses to three public consultations on the CDE Technical Guidance, along with related industry workshops and conference calls.[25]

Since each authority is responsible for issuing requirements for market participants on OTC derivatives data reporting, the CDE Technical Guidance does not determine which critical data elements are required to be reported in a given jurisdiction. Instead, if CDE Technical Guidance data elements are required to be reported in a given jurisdiction, the CDE Technical Guidance provides the relevant authorities in that jurisdiction guidance on the definition, format, and allowable values for these data elements that would facilitate consistent aggregation at a global level.

II. Proposed Amendments to Part 45

A. § 45.1—Definitions

Section 45.1 contains the definitions for terms used throughout the regulations in part 45. Section 45.1 does not contain any lower paragraph levels. The Commission is proposing to separate § 45.1 into two paragraphs: § 45.1(a) for definitions, and § 45.1(b), which would state that terms not defined in part 45 have the meanings assigned to the terms in Commission regulation § 1.3.[26]

The Commission is also proposing to revise the definitions in proposed § 45.1(a). As part of these revisions, the Commission is proposing to add new definitions, and amend or remove certain definitions. As § 45.1 is arranged alphabetically, the Commission has grouped the discussion of its proposed changes to § 45.1 into corresponding categories (*i.e.,* new definitions, amendments, and removal), except as otherwise noted.

1. Proposed New Definitions

The Commission is proposing to add a definition of ''allocation'' to § 45.1(a). As proposed, ''allocation'' would mean the process by which an agent, having facilitated a single swap transaction on behalf of clients, allocates a portion of the executed swap to the clients. Section 45.3(f) currently contains regulations for reporting allocations without defining the term. Defining ''allocation'' should help market participants comply with the regulations for reporting allocations in § 45.3.

The Commission is also proposing to add a definition of ''as soon as technologically practicable'' (''ASATP'') to § 45.1(a). As proposed, ''as soon as technologically practicable'' would mean as soon as possible, taking into consideration the prevalence, implementation, and use of technology by comparable market participants. The phrase ''as soon as technologically practicable'' is currently used throughout part 45, but is not defined. The Commission is proposing to adopt the same definition of ''as soon as technologically practicable'' as is defined in § 43.2 of the Commission's regulations for the swap transaction and pricing data.[27]

The Commission is also proposing to add a definition of ''collateral data'' to § 45.1(a). As proposed, ''collateral data'' would mean the data elements necessary to report information about the money, securities, or other property posted or received by a swap counterparty to margin, guarantee, or secure a swap, as specified in appendix 1 to part 45. This proposed new definition is explained in a discussion of proposed requirements for reporting counterparties to report collateral data in section II.D.4 below.

The Commission is proposing to add definitions for ''execution'' and ''execution date'' to § 45.1(a). As proposed, ''execution'' would mean an agreement by the parties, by any method, to the terms of a swap that legally binds the parties to such swap terms under applicable law.[28] The term ''execution date'' would mean the date, determined by reference to eastern time, on which swap execution has occurred. The execution date for a clearing swap that replaces an original swap would be the date, determined by reference to eastern time, on which the original swap has been accepted for clearing. The term ''execution'' is currently used throughout part 45 but not defined, and the Commission is proposing new regulations that reference ''execution date.''[29]

The Commission is proposing to add the following three definitions to § 45.1(a): ''Global Legal Entity Identifier

(Feb. 2017), *available at https://www.iosco.org/library/pubdocs/pdf/IOSCOPD557.pdf.* The CFTC's rules currently refer to UTIs as USIs. As discussed in section II.E below, the Commission is proposing to harmonize its unique swap identifier (''USI'') rules with the UTI Technical Guidance, and change USI references to UTI.

[21] CPMI–IOSCO, Technical Guidance, Harmonisation of the Unique Product Identifier (Sept. 2017), *available at https://www.iosco.org/library/pubdocs/pdf/IOSCOPD580.pdf.*

[22] *See* 17 CFR 45.5.

[23] The CDE Technical Guidance was finalized following consultative reports in September 2015, October 2016, and June 2017. *See* CPMI–IOSCO, Technical Guidance, Harmonisation of Critical OTC Derivatives Data Elements (other than UTI and UPI) (Apr. 2018), *available at https://www.iosco.org/library/pubdocs/pdf/IOSCOPD598.pdf.*

[24] *Id.*

[25] *See* CPMI–IOSCO, Technical Guidance, Harmonisation of Critical OTC Derivatives Data Elements (other than UTI and UPI) at 9.

[26] 17 CFR 1.3.

[27] *See* 17 CFR 43.2 (definition of ''as soon as technologically practicable'').

[28] The Commission notes that the proposed definition of ''execution'' is functionally identical to the existing definition of execution in part 23 of the Commission's regulations. *See* 17 CFR 23.200(e) (definition of ''execution'').

[29] *See* proposed § 45.3(a) and (b), discussed in sections II.C.2.a and II.C.2.b, respectively, below.

System,'' ''legal entity identifier'' or ''LEI,'' and ''Legal Entity Identifier Regulatory Oversight Committee'' (''LEI ROC''). As proposed, ''Global Legal Entity Identifier System'' would mean the system established and overseen by the LEI ROC for the unique identification of legal entities and individuals. As proposed, ''legal entity identifier'' or ''LEI'' would mean a unique code assigned to swap counterparties and entities in accordance with the standards set by the Global Legal Entity Identifier System. As proposed, ''Legal Entity Identifier Regulatory Oversight Committee'' would mean the group charged with the oversight of the Global Legal Entity Identifier System that was established by the finance ministers and the central bank governors of the Group of Twenty nations and the Financial Stability Board, under the Charter of the Regulatory Oversight Committee for the Global Legal Entity Identifier System dated November 5, 2012, or any successor thereof.[30] These proposed definitions are all associated with, and further explained in the context of, the § 45.6 regulations for LEI, discussed in section II.F below.

The Commission is proposing to add a definition of ''non-SD/MSP/DCO reporting counterparty'' to § 45.1(a). As proposed, ''non-SD/MSP/DCO reporting counterparty'' would mean a reporting counterparty that is not an SD, MSP, or DCO. Currently, DCOs are not included in the term ''non-SD/MSP reporting counterparty.'' This creates problems when, for instance, the Commission did not intend for DCOs to follow the required swap creation data reporting regulations in § 45.3(d) for off-facility swaps not subject to the clearing requirement with a non-SD/MSP reporting counterparty, even though DCOs are technically reporting counterparties that are neither SDs or MSPs. Instead, DCOs follow the required swap creation data reporting regulations in § 45.3(e) for clearing swaps. The definition of ''non-SD/MSP/DCO reporting counterparty'' should address this unintended regulatory overlap.

The Commission is proposing to add a definition of ''novation'' to § 45.1(a). As proposed, ''novation'' would mean the process by which a party to a swap legally transfers all or part of its rights, liabilities, duties, and obligations under the swap to a new legal party other than the counterparty to the swap under applicable law. This proposed term is currently referenced in the definition of ''life cycle event,'' as well as the § 45.8(g) regulations for determining which counterparty must report, but is not currently defined.

The Commission is proposing to add a definition of ''swap'' to § 45.1(a). As proposed, ''swap'' would mean any swap, as defined by § 1.3, as well as any foreign exchange forward, as defined by CEA section 1a(24), or foreign exchange swap, as defined by CEA section 1a(25).[31] The term ''swap'' is used throughout part 45. The proposed definition would codify the meaning of the term as it is currently used throughout part 45.

The Commission is proposing to add definitions of ''swap data'' and ''swap transaction and pricing data'' to § 45.1(a). As proposed, ''swap data'' would mean the specific data elements and information in appendix 1 to part 45 required to be reported to an SDR pursuant to part 45 or made available to the Commission pursuant to part 49, as applicable; ''swap transaction and pricing data'' would mean all data for a swap in appendix C to part 43 required to be reported or publicly disseminated pursuant to part 43. The term ''swap data'' is currently used throughout part 45. The Commission believes that having the term ''swap data'' apply to part 45 data, and ''swap transaction and pricing data'' apply to part 43 data would provide clarity across the reporting regulations.[32]

The Commission is proposing to add a definition of ''swap data validation procedures'' to § 45.1(a). As proposed, ''swap data validation procedures'' would mean procedures established by an SDR pursuant to proposed § 49.10 to accept, validate, and process swap data reported to an SDR pursuant to part 45. This proposed new definition is explained in a discussion of the proposed regulations for the validation of swap data reported to SDRs in section IV.C.3 below.

The Commission is proposing to add a definition of ''unique transaction identifier'' to § 45.1(a). As proposed, ''unique transaction identifier'' would mean a unique alphanumeric identifier with a maximum of 52 characters constructed solely from the upper-case alphabetic characters A to Z or the digits 0 to 9, inclusive in both cases, generated for each swap pursuant to § 45.5. This proposed new definition is used in the discussion of the regulations to transition from using USIs to UTIs. Those proposed changes are explained in section II.E below.

2. Proposed Amendments to Existing Definitions

The Commission is proposing non-substantive minor technical changes to the existing definitions of ''asset class,'' ''derivatives clearing organization,'' and ''swap execution facility.'' The remaining discussion in this section addresses substantive amendments.

The Commission is proposing to amend the definition of ''business day'' in proposed § 45.1(a). Currently, § 45.1 defines ''business day'' to mean ''the twenty-four hour day, on all days except Saturdays, Sundays, and legal holidays, in the location of the reporting counterparty or registered entity reporting data for the swap.''[33] The Commission is proposing to replace ''the twenty-four hour day'' with ''each twenty-four hour day,'' and ''legal holidays, in the location of the reporting counterparty'' with ''Federal holidays.'' The Commission believes these changes would simplify the current business day definition by removing the responsibility of determining different legal holidays depending on the reporting counterparty's location. The proposed amended definition is used in a discussion of proposed changes to the timing requirements for reporting swap creation data and required swap continuation data in current and proposed §§ 45.3 and 45.4. Those proposed changes are explained in sections II.C and II.D, respectively, below.

The Commission is proposing to amend the definition of ''life cycle event'' in proposed § 45.1(a). Currently, § 45.1 defines ''life cycle event'' to mean any event that would result in either a change to a primary economic term of a swap or to any primary economic terms data (''PET data'') previously reported to an SDR in connection with a swap. Examples of such events include, without limitation, a counterparty change resulting from an assignment or novation; a partial or full termination of the swap; a change to the end date for the swap; a change in the cash flows or rates originally reported; availability of an LEI for a swap counterparty previously identified by name or by some other identifier; or a corporate action affecting a security or

[30] *https://www.leiroc.org/publications/gls/roc_20190130-1.pdf.*

[31] The Commission notes that while foreign exchange forwards and foreign exchange swaps are excluded from the definition of ''swap,'' such transactions are nevertheless required to be reported to an SDR. *See* 7 U.S.C. 1a(47)(E)(iii) (definition of ''swap'').

[32] The Commission has also proposed to add functionally identical definitions for ''swap data'' and ''swap transaction and pricing data'' to part 49 of the Commission's regulations as part of the 2019 Part 49 NPRM. *See* 2019 Part 49 NPRM at 21102 (definitions of ''swap data'' and ''swap transaction and pricing data'').

[33] 17 CFR 45.1 (definition of ''business day'').

securities on which the swap is based (*e.g.,* a merger, dividend, stock split, or bankruptcy). The Commission is proposing to replace the reference to PET data with required swap creation data.[34] The Commission is also proposing to replace a reference to a counterparty being identified in swap data by ''name'' with other identifiers to account for situations where counterparties are identified by other means.

The Commission is proposing to amend the definition of ''non-SD/MSP counterparty'' in proposed § 45.1(a). Currently, § 45.1 defines ''non-SD/MSP counterparty'' to mean a swap counterparty that is neither an SD nor an MSP. The Commission is proposing to change the defined term to ''non-SD/MSP/DCO counterparty.''[35] As amended, ''non-SD/MSP/DCO counterparty'' would mean a swap counterparty that is not an SD, MSP, or DCO. This amendment would conform to the amendments proposed to the term ''non-SD/MSP/DCO reporting counterparty'' explained in section II.A.1 above.

The Commission is proposing to amend the definition of ''required swap continuation data'' in proposed § 45.1(a). Currently, § 45.1 defines ''required swap continuation data'' to mean all of the data elements that must be reported during the existence of a swap to ensure that all data concerning the swap in the SDR remains current and accurate, and includes all changes to the PET terms of the swap occurring during the existence of the swap. The definition further specifies that for this purpose, required swap continuation data includes: (i) All life cycle event data for the swap if the swap is reported using the life cycle reporting method, or all state data for the swap if the swap is reported using the snapshot reporting method; and (ii) all valuation data for the swap.

First, the Commission is proposing to remove the reference to ''primary economic terms of the swap.''[36] Second, the Commission is proposing to remove the reference to snapshot reporting.[37] Third, the Commission is proposing to add a reference to the margin and collateral data that would be required to be reported pursuant to proposed § 45.4(c)(2). As amended, the definition would mean all of the data elements that shall be reported during the existence of a swap to ensure that all swap data concerning the swap in the SDR remains current and accurate, and includes all changes to the required swap creation data occurring during the existence of the swap. For this purpose, required swap continuation data includes: (i) All life cycle event data for the swap; and (ii) all swap valuation, margin, and collateral data for the swap.

The Commission is proposing to amend the definition of ''required swap creation data'' in § 45.1(a). Currently, § 45.1 defines ''required swap creation data'' to mean all PET data for a swap in the swap asset class in question, and all confirmation data for the swap. The Commission is proposing to replace the reference to PET data and confirmation data with a reference to the swap data elements in appendix 1 to part 45. This proposed amended definition is explained in a discussion of the proposal to eliminate the requirement to report confirmation data in section II.C below.

The Commission is proposing to amend the definition of ''valuation data'' in § 45.1(a). Currently, § 45.1 defines ''valuation data'' to mean all of the data elements necessary to fully describe the daily mark of the transaction, pursuant to CEA section 4s(h)(3)(B)(iii),[38] and § 23.431 of the Commission's regulations, if applicable. The Commission is proposing to include a reference to the swap data elements in appendix 1 to part 45. This proposed amended definition is explained in a discussion of the proposal to amend the valuation reporting requirements in § 45.4 in section II.D below.

3. Proposed Removal of Definitions

The Commission is proposing to remove the following definitions from § 45.1: ''credit swap;'' ''designated contract market;'' ''foreign exchange forward;'' ''foreign exchange instrument;'' ''foreign exchange swap;'' ''interest rate swap;'' ''major swap participant;'' ''other commodity swap;'' ''state data;'' ''swap data repository;'' and ''swap dealer.'' The Commission is proposing to remove these definitions to eliminate redundancy because the terms are already generally defined in § 1.3 of the Commission's regulations or in CEA section 1a.[39]

The Commission is also proposing to remove the following definitions from § 45.1: ''confirmation;'' ''confirmation data;'' ''electronic confirmation;'' ''non-electronic confirmation;'' ''primary economic terms;'' and ''primary economic terms data.'' These definitions are being removed as part of the proposed amendments to combine PET data and confirmation data into a single required swap creation data report. These proposed amendments are explained in section II.C below.

The Commission is proposing to remove the definition of ''quarterly reporting'' from § 45.1. Currently, § 45.4(d)(2)(ii) requires non-SD/MSP reporting counterparties to provide quarterly reports of valuation data. The Commission is proposing to remove this requirement for non-SD/MSP reporting counterparties, as explained in section II.D.4 below. As a result, the definition of ''quarterly reporting'' in § 45.1 is no longer necessary.

The Commission is also proposing to remove the definitions of ''electronic verification,'' ''non-electronic verification,'' and ''verification'' from § 45.1. Currently, certain deadlines for reporting required swap creation data for off-facility swaps in § 45.3 depend on whether verification occurs electronically.[40] The Commission is proposing to amend the deadlines for reporting counterparties to report required swap creation data in § 45.3. As part of these proposed amendments, the deadlines would no longer depend on verification.[41] Therefore, the definitions related to verification in this context would no longer be necessary.

The Commission is proposing to remove the definition of ''international swap'' from § 45.1. Currently, § 45.1 defines ''international swap'' to mean a swap required by U.S. law and the law of another jurisdiction to be reported both to an SDR and to a different TR registered with the other jurisdiction. The proposal to remove this definition is explained in a discussion of the Commission's proposal to remove the requirements for international swaps in § 45.3(i). Those proposed changes are explained in section II.C.6 below.

[34] The removal of the term PET data is reflected in the discussion of the proposed changes to the required swap creation data and required swap continuation data regulations in §§ 45.3 and 45.4. Those proposed changes are explained in sections II.C and II.D, respectively, below.

[35] The Commission is proposing to update all references to ''non-SD/MSP counterparty'' to ''non-SD/MSP/DCO counterparty'' throughout part 45. To limit repetition, the Commission will not discuss each removal of the phrase throughout this release.

[36] The removal of the term PET data is reflected in the discussion of the proposed changes to the required swap creation data and required swap continuation data regulations in §§ 45.3 and 45.4. Those proposed changed are explained in sections II.C and II.D, respectively, below.

[37] The removal of state data reporting is reflected in the discussion of the proposed changes to the required swap continuation data regulations in § 45.4. Those proposed changes are explained in section II.D below.

[38] 7 U.S.C. 6s(h)(3)(B)(iii).

[39] 7 U.S.C. 1a.

[40] For instance, current § 45.3(c)(1)(i)(A) requires reporting counterparties to report all PET data for a swap ASATP or within 30 minutes of execution if verification occurs electronically. *See* 17 CFR 45.3(c)(1)(i)(A).

[41] These proposed amendments are discussed in section II.C below.

Request for Comment

The Commission requests comments on all aspects of the proposed changes to § 45.1. The Commission also invites specific comment on the following:

(1) Does the Commission's proposed definition of ''execution date'' present problems for SEFs, DCMs, SDRs, or reporting counterparties? Should the Commission instead adopt a definition that aligns with other regulations, including, for instance, the definition of ''day of execution'' in § 23.501(a)(5)(i)? [42]

B. § 45.2—Swap Recordkeeping

The Commission is proposing amendments to the § 45.2 swap recordkeeping regulations. The proposed amendments are technical and do not impact the existing requirements or applicability of § 45.2.[43] The proposed technical amendments to § 45.2 are limited to updating terminology and phrasing to improve consistency in the reporting regulations, and to conform to changes proposed elsewhere in part 45.

For instance, in this release, the Commission is proposing a technical amendment to remove the phrase ''subject to the jurisdiction of the Commission'' from § 45.2. The Commission is proposing to remove this phrase from all of part 45.[44] The phrase is unnecessary, as the Commission's regulations apply to all swaps or entities within the Commission's jurisdiction, regardless of whether the regulation states the fact.

C. § 45.3—Swap Data Reporting: Creation Data

1. Introductory Text

The Commission is proposing to remove the introductory text to § 45.3. As background, the introductory text to § 45.3 provides a broad overview of the swap data reporting regulations for registered entities and swap counterparties. In providing this overview, the introductory text to § 45.3 cross-references reporting regulations in parts 17, 18, 43, 45, 46, and 50.[45] The introductory text also specifies that § 45.3(a) through (d) applies to all swaps except clearing swaps, and § 45.3(e) applies to clearing swaps.

The Commission believes that the introductory text is superfluous because the scope of § 45.3 is clear from the operative provisions of § 45.3.[46] Removing the introductory text would not impact any regulatory requirements, including those referenced in the introductory text.

2. § 45.3(a) Through (e)—Swap Data Reporting: Creation Data

a. § 45.3(a)—Swaps Executed on or Pursuant to the Rules of a SEF or DCM

The Commission is proposing several changes to the § 45.3(a) required swap creation data reporting regulations for swaps executed on or pursuant to the rules of a SEF or DCM. Current § 45.3(a) requires that SEFs and DCMs report all PET data for swaps ASATP after execution. If the swap is not intended to be cleared at a DCO, § 45.3(a) requires that the SEF or DCM also report confirmation data for the swap ASATP after execution.

The Commission is first proposing to revise the § 45.3(a) requirement for SEFs and DCMs to submit both PET data and confirmation data for swaps that are not intended to be cleared at a DCO. As background, PET data reporting includes the reporting of approximately sixty swap data elements, varying by asset class, enumerated in appendix 1 to part 45.[47] Confirmation data reporting includes reporting all of the terms of a swap matched and agreed upon by the counterparties in confirming a swap.[48]

By the terms of the two definitions, PET data, which is a set number of data elements for each asset class, appears to be a subset of confirmation data, which is defined as, ''all terms of a swap . . . .'' In defining two separate data sets, the Commission intended that that the initial PET data report would ensure that an SDR would have sufficient data on each swap for the Commission to perform its regulatory functions while the more complete confirmation data may not yet be available.[49]

However, the current § 45.3 PET data and confirmation data requirements may be encouraging the reporting of duplicative information to SDRs. One of the PET data elements in current appendix 1 to part 45 is ''[a]ny other term(s) . . . matched or affirmed by the counterparties in verifying the swap.'' The comments to this ''catch-all'' data element in appendix 1 to part 45 instruct reporting counterparties, SEFs, DCMs, and DCOs to use ''as many data elements as required to report each such term.'' [50] The Commission believes that this catch-all has obscured the difference between PET data and confirmation data. The Commission is concerned that reporting counterparties, SEFs, and DCMs are submitting duplicative reports to meet the distinct, yet seemingly indistinguishable, regulatory requirements at the expense of data quality.[51]

DMO requested comment on whether to combine PET data and confirmation data into a single, clearly defined, and electronically reportable set of data elements as part of the Roadmap review.[52] Several commenters supported combining PET and confirmation data as a way to streamline reporting.[53] One commenter supported

[42] For the purposes of § 23.501, ''day of execution'' means the calendar day of the party to the swap transaction that ends latest, provided that if a swap transaction is—(a) entered into after 4:00 p.m. in the place of a party; or (b) entered into on a day that is not a business day in the place of a party, then such swap transaction shall be deemed to have been entered into by that party on the immediately succeeding business day of that party, and the day of execution shall be determined with reference to such business day. 17 CFR 23.501(a)(5)(i). For the purposes of § 23.501, ''business day'' means any day other than a Saturday, Sunday, or legal holiday. 17 CFR 23.501(a)(5)(ii).

[43] In the 2019 Part 49 NPRM, the Commission proposed relocating the recordkeeping requirements for SDRs from § 45.2(f) and (g) to § 49.12. *See* 2019 Part 49 NPRM at 21103. The request for comment for § 45.2(f) and (g), as well as any associated cost-benefit analysis, is in the 2019 Part 49 NPRM. *See id.* at 21084–85.

[44] To limit repetition, the Commission will not discuss each removal throughout this release.

[45] The introductory text to current § 45.3 references: The § 45.13(b) regulations related to required data standards for reporting swap data to SDRs; the § 49.10 regulations requiring SDRs to accept swap data; the part 46 regulations for reporting pre-enactment swaps and transition swaps; the § 45.4 regulations for reporting required swap continuation data; the § 45.6 regulations for the use of LEIs; the real-time public reporting requirements in part 43; the part 50 regulations for counterparties to report electing the end-user exception from clearing; and the parts 17 and 18 regulations for large trader reporting.

[46] The Commission is proposing to move the reference in the introductory text to required data standards for SDRs in § 45.13(b) to the regulatory text of proposed § 45.3(a) and (b) and renumber it from § 45.13(b) to § 45.13(a).

[47] *See* 17 CFR 45.1 (definition of ''primary economic terms''). The Commission is proposing to remove the definition of ''primary economic terms'' from § 45.1, as discussed in section II.A.3 above.

[48] *See* 17 CFR 45.1 (definition of ''confirmation data''). The Commission is proposing to remove the definition of ''confirmation data'' from § 45.1, as discussed in section II.A.3 above. ''Confirmation'' is defined as the consummation of legally binding documentation that memorializes the agreement of the parties to all terms of a swap. 17 CFR 45.1 (definition of ''confirmation'').

[49] *See* 77 FR at 2142, 2148.

[50] 17 CFR 45 appendix 1.

[51] For instance, in reviewing 49,766 part 45 credit default swap reports from June 1, 2019 to June 7, 2019, Commission staff found that out of the 12,336 swap reports submitted by SEFs and DCMs, 5,883 reports were duplicative in that they related to swaps that had already been reported, while SDs submitted 645 reports that were similarly duplicative out of 22,264 total.

[52] *See* Roadmap to Achieve High Quality Swap Data at 7.

[53] Letter from Global Foreign Exchange Division (''GFXD'') of the Global Financial Markets Association (''GFMA'') (Aug. 21, 2017) at 6–7; Letter from LedgerX (Aug. 18, 2017) at 1; Letter

Continued

viewing PET data and confirmation data as a single set of data elements, which would remove confusion in the industry as to what must be reported as part of confirmation data.[54] Other commenters requested that, if the Commission maintains a separate confirmation data reporting requirement, it specify what data elements should be in confirmation data.[55]

Other regulators have taken different approaches to required swap creation data reporting. The Securities and Exchange Commission (''SEC''), for instance, does not have rules for reporting separate confirmation data reports.[56] In the European Union (''EU''), the European Market Infrastructure Regulation (''EMIR'') [57] requires reporting of the details of any derivative contract counterparties have concluded and of any modification or termination of the contract. The European Securities and Markets Authority (''ESMA'') then develops the specific technical standards and requirements for the implementation of reporting.

The Commission believes eliminating the confirmation data reporting requirement would help streamline swap data reporting under part 45. Therefore, the Commission is proposing to revise § 45.3(a) to require SEFs and DCMs to report a single required swap creation data report, regardless of whether the swap is intended to be cleared.

Second, the Commission is proposing to revise the § 45.3(a) requirement for SEFs and DCMs to report required swap creation data ASATP following execution. As background, the CEA requires that all swaps be reported to SDRs, but does not specify the timeframes for reporting swap data to SDRs for regulatory purposes under sections 2(a)(13)(G) and 4r(a).[58]

When part 45 was adopted in 2012, the Commission believed that reporting swap data immediately following execution was important to further the objectives of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'').[59] Reporting swap data ASATP would ensure that swap data is reported to SDRs in a manner that ensures the ability of the Commission and other regulators to fulfill the systemic risk mitigation, market transparency, position limit monitoring, and market surveillance objectives of the Dodd-Frank Act.[60]

The Commission is concerned that the ASATP deadline for regulatory reporting may be causing reporting counterparties to hastily report required swap creation data that has contributed to data quality issues. As a result, the Commission is considering extending the deadline for required swap creation data in a way that will continue to permit it to fulfill the systemic risk mitigation, market transparency, position limit monitoring, and market surveillance objectives of the Dodd-Frank Act.

DMO requested comment on whether to move to a new ''T+1'' reporting timeline for part 45 in the Roadmap to understand whether additional reporting time would be beneficial.[61] DMO suggested a ''T+1'' timeline would involve reporting required swap creation data on the next business day following execution.[62] DMO further noted that a ''T+1'' standard would encourage alignment with the reporting deadlines established by the SEC and ESMA.[63] In response, several commenters expressed support for moving part 45 reporting to ''T+1'' or a similar delayed time.[64]

The Commission believes this extended reporting timeline could help improve data quality while encouraging alignment with reporting deadlines set by other regulators. The Commission is therefore proposing to revise § 45.3(a) to extend the deadline for SEFs and DCMs to report required swap creation data to T+1 following the execution date. Revised § 45.3(a) would therefore require that for each swap executed on or pursuant to the rules of a SEF or DCM, the SEF or DCM shall report swap creation data electronically to an SDR in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the next business day following the execution date.

b. § 45.3(b) Through (d)—Off-Facility Swaps

The Commission is proposing several changes to the current § 45.3(b) through (d) required swap creation data reporting regulations for off-facility swaps. Many of the proposed changes to requirements in § 45.3(b) through (d) would conform to the revisions proposed in the previous sections to the requirements for swaps executed on SEFs and DCMs.

The current required swap creation data reporting obligations for off-facility swaps are based on the type of swap and type of reporting counterparty. In general, for off-facility swaps subject to the Commission's clearing requirement, § 45.3(b) requires that SD/MSP reporting counterparties report PET data ASATP after execution, with a 15-minute deadline, while non-SD/MSP reporting counterparties report PET data ASATP after execution with a one business hour deadline.[65]

For off-facility swaps that are not subject to the clearing requirement but have an SD/MSP reporting counterparty, § 45.3(c)(1) now generally requires that SD/MSP reporting counterparties report PET data ASATP after execution with a 30-minute deadline, and confirmation data for swaps that are not intended to be cleared ASATP with a 30 minute deadline if confirmation is electronic, or ASATP with a 24 business hour

from The International Swaps and Derivatives Association (''ISDA'') and The Securities Industry and Financial Markets Association (''SIFMA'') (''Joint ISDA–SIFMA Letter'') (Aug. 21, 2017) at 7; Letter from Chatham Financial (''Chatham'') (Aug. 21, 2017) at 5.

[54] Letter from The Depository Trust & Clearing Corporation (''DTCC''), which owns DTCC Data Repository (U.S.), LLC (''DDR'') (Aug. 21, 2017) at 2, n.4.

[55] Joint letter from Bloomberg SDR LLC (''BSDR''), Chicago Mercantile Exchange Inc. (''CME''), and ICE Trade Vault, LLC (''Joint SDR Letter'') (Aug. 21, 2017) at 6. BSDR voluntarily withdrew its provisional SDR registration on March 21, 2019.

[56] *See generally* 17 CFR 242.901.

[57] Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories, Article 9(1) (July 4, 2012) (requiring reporting after execution without reference to separate reports); Commission Implementing Regulation (EU) No 1247/2012 laying down implementing technical standards with regard to the format and frequency of trade reports to trade repositories according to Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories, Article 1 (Dec. 19, 2012) (referencing ''single'' reports under Article 9 of Regulation (EU) No 648/2012).

[58] *See* 7 U.S.C. 2(a)(13)(G) (''Each swap (whether cleared or uncleared) shall be reported to a registered [SDR]''); *see also* 7 U.S.C. 6r (establishing the SDR reporting requirements for uncleared swaps without reference to a timing requirement); *see also* Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136, 2150.

[59] Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136, 2150.

[60] *See id.* at 2149.

[61] *See* Roadmap to Achieve High Quality Swap Data at 10.

[62] *See id.*

[63] The SEC requires primary and secondary trade information be reported within 24 hours of execution on the next business day. 17 CFR 242.901(j). The SEC noted that commenters raised concerns that unreasonably short reporting timeframes would result in the submission of inaccurate transaction information, and that the SEC's interim 24-hour reporting timeframe § 901(j) strikes an appropriate balance between the need for prompt reporting of security-based swap transaction information and allowing reporting entities sufficient time to develop fast and robust reporting capability. *See* Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information, 80 FR 14564, 14623–64 (Mar. 19, 2015). ESMA requires reporting no later than the working day following execution. Regulation (EU) No 648/2012 Article 9(1).

[64] Letter from Chatham at 5; Letter from CME (Aug. 21, 2017) at 2; Letter from the London Clearing House, Ltd. (''LCH'') (Aug. 21, 2017) at 3; Letter from GFMA at 7–8; Joint SDR Letter at 10.

[65] 17 CFR 45.3(b)(1)(i) and (ii).

deadline if not electronic, for credit, equity, foreign exchange, and interest rate swaps.[66]

Section 45.3(c)(2) currently requires that for swaps in the other commodity asset class, SD/MSP reporting counterparties report PET data ASATP after execution, with a two-hour deadline, and confirmation data for swaps that are not intended to be cleared ASATP after confirmation with a 30-minute deadline if confirmation is electronic, or a 24 business hour deadline if confirmation is not electronic.[67]

For off-facility swaps that are not subject to the clearing requirement but have a non-SD/MSP reporting counterparty, § 45.3(d) requires reporting counterparties report PET data ASATP after execution with a 24 business hour deadline, and confirmation data ASATP with a 24 business hour deadline if the swap is not intended to be cleared.[68]

The Commission's proposed changes to § 45.3(b) through (d) fall into three categories, discussed below.

First, as part of a restructuring of regulations in § 45.3(a) through (d), the Commission is proposing to replace § 45.3(b) through (d) with new § 45.3(b), titled ''Off-facility swaps.'' This proposed new § 45.3(b) would contain the swap creation data reporting requirements for off-facility swaps. The new timing requirements for reporting off-facility swaps would depend on whether the reporting counterparty is an SD/MSP/DCO or a non-SD/MSP/DCO reporting counterparty. This means the timing requirements in § 45.3(b) would include the required swap creation data reporting requirements for clearing swaps, as they are created at DCOs.[69] Sections 45.3(c) through (d) would be replaced by provisions for allocations and multi-asset swaps, as discussed in the following sections.

Second, the Commission is proposing to revise the requirement in § 45.3(b) through (d) for reporting counterparties to submit separate PET data and confirmation data for all off-facility swaps that are not intended to be cleared at a DCO. The background to this change is discussed in section II.C.2.a above. As with swaps executed on SEFs and DCMs, the Commission believes a single report would align with the approach taken by other regulators, improve data quality, and be responsive to Roadmap comments.

Third, the Commission is proposing to revise the § 45.3(b) through (d) requirements for reporting counterparties to report required swap creation data ASATP after execution with different deadlines for off-facility swaps.[70]

With respect to off-facility swaps, one Roadmap commenter explained that the current requirement for SD/MSP reporting counterparties to report uncleared swaps in § 45.3(c)(1) within 30 minutes means that reporting counterparties are inputting data before the trade is confirmed, resulting in modifications as terms are finalized.[71] Another commenter requested that end-users be given at least 36, if not 48, hours to report.[72] One commenter requested that, if the Commission maintains confirmation data reporting, the deadline for reporting that data coincide with the deadline for issuing confirmations under § 23.501.[73]

The Commission is proposing to revise the required swap creation data reporting deadlines in § 45.3(a) through (d) for off-facility swaps in two new regulations: § 45.3(b)(1) and § 45.3(b)(2). New § 45.3(b)(1) would require that SD/MSP/DCO reporting counterparties report swap creation data to an SDR by T+1 following the execution date. This standard would be consistent with the standard proposed for SEFs and DCMs in § 45.3(a). The Commission believes this standard would also address commenters' concerns about needing more time to report to avoid modifications to the data, and would allow for errors identified during the confirmation process to be corrected prior to reporting.

New § 45.3(b)(2) would require that non-SD/MSP/DCO reporting counterparties report swap creation data to an SDR not later than T+2 following the execution date. The Commission anticipates that proposed § 45.3(b)(2) would provide non-SD/MSP/DCO reporting counterparties relief in reporting swap creation data for the minority of off-facility swaps in which both counterparties are non-SD/MSP/DCO counterparties. This extended deadline reflects the Commission's interest in relieving some of the swap data reporting burdens previously imposed on end users in a way that should also help improve data quality.

Therefore the Commission is proposing revised § 45.3(b) to require that for each off-facility swap, the reporting counterparty shall report electronically to an SDR as provided by § 45.3(b)(1) or (b)(2), as applicable.

Proposed § 45.3(b)(1) would require that if the reporting counterparty is an SD, MSP, or DCO, the reporting counterparty shall report swap creation data electronically to an SDR in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the next business day following the execution date.

Proposed § 45.3(b)(2) would require that if the reporting counterparty is a non-SD/MSP/DCO counterparty, the reporting counterparty shall report required swap creation data electronically to an SDR in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the second business day following the execution date.

c. § 45.3(e)—Clearing Swaps

As noted above, the Commission is proposing to move the required swap creation data reporting requirements for clearing swaps from § 45.3(e) to revised § 45.3(b)(1). The required swap creation data reporting requirements would be covered under the ''off-facility swaps'' regulations, as clearing swaps are created at DCOs. As background, § 45.3(e) currently requires that DCOs report required swap creation data for clearing swaps ASATP after clearing or execution, depending on whether the swap is replacing an original swap. Current § 45.3(e) specifies that required swap creation data for clearing swaps includes all confirmation data and PET data.

Consolidating the requirements for DCOs to report swap creation data in § 45.3(b) with those of SD/MSP reporting counterparties would simplify the reporting requirements. Revised § 45.3(b)(1) would require that SD/MSP/DCO reporting counterparties report required swap creation data to an SDR not later than T+1 following the execution date.[74] This would extend the time DCOs have to report required swap creation data for clearing swaps pursuant to § 45.3(e) from ASATP after

[66] 17 CFR 45.3(c)(1)(i) through (ii).

[67] 17 CFR 45.3(c)(2)(i) through (ii).

[68] 17 CFR 45.3(d).

[69] As part of this change, the Commission is proposing to move the requirements for reporting required swap creation data for clearing swaps from § 45.3(e) to new § 45.3(b).

[70] The background to this amendment is discussed in section II.C.2.a above, in the context of SEF/DCM/DCO reporting.

[71] Letter from GFMA at 7.

[72] Letter from the Commercial Energy Working Group (''CEWG'') (Aug. 21, 2017) at 4.

[73] Joint SDR Letter at 6. The regulation provides SDs and MSPs entering into swaps with SD/MSP counterparties must execute confirmations ASATP but in any event by the end of the first business day following the day of execution. 17 CFR 23.501(a)(1).

[74] The background to this proposed amendment is discussed in connection with the proposed amendment to the required swap creation data reporting deadlines for off-facility swaps, discussed in section II.C.2.b above.

clearing or execution to T+1 following the execution date.

While the Commission is proposing to extend the time DCOs have to report required swap creation data, the Commission recognizes that DCOs are required to clear swaps ASATP after execution as if fully automated systems were used.[75] The Commission therefore expects that DCO reporting counterparties may continue to report ASATP, especially if their reporting and clearing processes are connected. However, proposed § 45.3(b)(1) would provide DCOs with the opportunity to change their reporting practices to take advantage of the additional time.

3. § 45.3(f)—Allocations

The Commission is proposing several amendments to the § 45.3(f) regulations for reporting allocations, including re-designating it as § 45.3(c).[76] As background, § 45.3(f)(1) provides that the reporting counterparty to an initial swap with an allocation agent reports required swap creation data for the initial swap, including a USI. For the post-allocation swaps, § 45.3(f)(2)(i) provides that the agent must tell the reporting counterparty the identities of the actual counterparties ASATP after execution, with a deadline of eight business hours. Section 45.3(f)(2)(ii) provides that the reporting counterparty must create USIs for the swaps and report all required swap creation data for each post-allocation swap ASATP after learning the identities of the counterparties. Section 45.3(f)(2)(iii) provides that the SDR to which the initial and post-allocation swaps were reported must map together the USIs of the initial swap and each post-allocation swap.

The Commission is proposing to specify that required swap creation data for allocations must be reported ''electronically'' to SDRs in § 45.3(c), (c)(1), and (c)(2)(ii). This should be current practice for reporting allocations to SDRs.

The Commission is also proposing to replace the reference in § 45.3(f)(1) (re-designated as § 45.3(c)(1)) to ''§ 45.3(a) through (d)'' with a reference to paragraphs (a) or (b) of § 45.3, to reflect the structural revisions to § 45.3(a) through (d) discussed above. Because the Commission is proposing to extend the time to report required swap creation data in § 45.3(a) and (b), reporting counterparties would have additional time to report required swap creation data for the initial swaps as well.

The Commission is proposing to amend current § 45.3(f)(2)(ii) (re-designated as § 45.3(c)(2)(ii))[77] to replace the requirement to report required swap creation data for post-allocation swaps ASATP after learning the identities of the actual counterparties with a cross-reference to § 45.3(b). This would give reporting counterparties until T+1 or T+2, depending on their status, to report required swap creation data for the allocated swaps, for reasons previously explained.

Finally,[78] the Commission is proposing to remove § 45.3(f)(2)(iii) without re-designation. One of the swap data elements the Commission is to require is an event data element.[79] One of the events in this data element will be ''allocation,'' which would require reporting counterparties to indicate whether a swap is associated with an allocation.

The Commission preliminarily believes this would simplify the current process involving SDRs mapping data elements. The Commission believes these data elements would also provide clarity to reporting counterparties, who are the parties with the information needed to map the data elements even though the rule placed the obligation on SDRs. As a result, the Commission believes removing § 45.3(f)(2)(iii) without re-designation will result in a better process for reporting counterparties and SDRs that should also help improve data quality.

Therefore, in light of the above proposed amendments, revised § 45.3(c)(1) would require that the initial swap transaction between the reporting counterparty and the agent shall be reported as required by § 45.3(a) or (b), as applicable. Section 45.3(c)(1) would also require that a UTI for the initial swap transaction be created as provided in § 45.5.

Section 45.3(c)(2)(i) would continue to provide that the agent shall inform the reporting counterparty of the identities of the reporting counterparty's actual counterparties resulting from allocation, ASATP after execution, but not later than eight business hours after execution. Section 45.3(c)(2)(ii) would require that the reporting counterparty report required swap creation data, as required by § 45.3(b), for each swap resulting from allocation to the same SDR to which the initial swap transaction is reported. Section 45.3(c)(2)(ii) would also provide that the reporting counterparty shall create a UTI for each such swap as required in § 45.5.

4. § 45.3(g)—Multi-Asset Swaps

The Commission is proposing several amendments to the current § 45.3(g) regulations for reporting multi-asset swaps, proposed to be re-designated as § 45.3(d). Section 45.3(g) now provides that for each multi-asset swap, required swap creation data and required swap continuation data must be reported to a single SDR that accepts swaps in the asset class treated as the primary asset class involved in the swap by the SEF, DCM, or reporting counterparty making the first report of required swap creation data pursuant to § 45.3. Current § 45.3(g) also provides that the registered entity or reporting counterparty making the first report of required swap creation data report all PET data for each asset class involved in the swap.

The Commission is proposing to amend § 45.3(g) (re-designated as § 45.3(d)) to replace the reference to ''making the first report'' of required swap creation data with ''reporting'' required swap creation data. This would reflect the Commission's proposal to require a single report for required swap creation data, instead of separate PET data and confirmation data reports.[80]

The Commission is also proposing to remove the last sentence of the regulation concerning all PET data for each asset class involved in the swap. This sentence is unnecessary, and would no longer be relevant with the Commission's proposal to remove PET data from its regulations.

Therefore, new § 45.3(d) would require that required swap creation data and required swap continuation data be reported to a single SDR that accepts swaps in the asset class treated as the primary asset class involved in the swap by the SEF, DCM, or reporting counterparty reporting required swap creation data pursuant to § 45.3.

5. § 45.3(h)—Mixed Swaps

The Commission is proposing several conforming or otherwise non-substantive amendments to § 45.3(h) for

[75] 17 CFR 39.12(b)(7)(ii) and (iii).

[76] The Commission is proposing to redesignate current § 45.3(f) as § 45.3(c) to reflect the consolidation of § 45.3(b) through (d) into § 45.3(b) discussed above.

[77] The Commission is not proposing to revise the § 45.3(f)(2)(i) requirement (re-designated as § 45.3(c)(2)(i)) for the agent to inform the reporting counterparty of the identities of the reporting counterparty's actual counterparties ASATP after execution, with an eight business hour deadline. Reporting counterparties will still need to know their actual counterparties, and the eight hour deadline is consistent with other regulations for allocations. *See* 17 CFR 1.35(b)(5)(iv).

[78] The Commission is also proposing several non-substantive minor and technical language edits, but is limiting discussion in this section to substantive amendments.

[79] The swap data elements required to be reported to SDRs are discussed in section V below.

[80] *See* sections II.C.2.a and II.C.2.b above.

mixed swaps, including re-designating it as § 45.3(e). Current § 45.3(h)(1) requires that for each mixed swap, required swap creation data and required swap continuation data shall be reported to an SDR registered with the Commission and to a security-based SDR (''SBSDR'') registered with the SEC. This requirement may be satisfied by reporting the mixed swap to an SDR or SBSDR registered with both Commissions. Current § 45.3(h)(2) requires that the registered entity or reporting counterparty making the first report of required swap creation data pursuant to § 45.3(h) shall ensure that the same USI is recorded for the swap in both the SDR and the SBSDR.

For instance, as with proposed § 45.3(d) for multi-asset swaps and for the same reason, the Commission is proposing to replace ''making the first report'' of required swap creation data with ''reporting'' required swap creation data in re-designated § 45.3(e)(2) to improve readability.

Therefore, § 45.3(e)(1) would require that for each mixed swap, required swap creation data and required swap continuation data shall be reported to an SDR and to a SBSDR registered with the SEC.[81] Amended § 45.3(e)(2) would require that the registered entity or reporting counterparty reporting required swap creation data pursuant to § 45.3(h) ensure that the same UTI is recorded for the swap in both the SDR and the SBSDR.

6. § 45.3(i)—International Swaps

The Commission is proposing to remove the § 45.3(i) regulations for international swaps. Section 45.3(i) requires that for each international swap, the reporting counterparty must report to an SDR the identity of the non-U.S. TR to which the swap is also reported and the swap identifier used by the non-U.S. TR. ''International swaps'' are defined in § 45.1 as swaps required to be reported by U.S. law and the law of another jurisdiction to be reported to both an SDR and to a different TR registered with the other jurisdiction.[82]

When § 45.3(i) was adopted, the Commission believed that the regulations for international swaps were necessary to provide an accurate picture of the swaps market to regulators to further the purposes of the Dodd-Frank Act.[83] However, if the same swap is reported to different jurisdictions, the USI, or UTI, as discussed in section II.E below, should be the same. If the transaction identifier is the same for the swap, there would be no need for the counterparties to send the identifier to other jurisdictions. In addition, in the future, regulators should have global TR access, further obviating the need for reporting counterparties sending identifiers to multiple jurisdictions.

As a result, the Commission believes that § 45.3(i) is no longer necessary and is proposing to remove § 45.3(i) from its regulations.

7. § 45.3(j)—Choice of SDR

The Commission is proposing non-substantive amendments to § 45.3(j) for reporting counterparties in choosing their SDR, including re-designating it as § 45.3(f). As background, § 45.3(j) now requires that the entity with the obligation to choose the SDR to which all required swap creation data for the swap is reported shall be the entity that is required to make the first report of all data pursuant to § 45.3, as follows: (i) For swaps executed on or pursuant to the rules of a SEF or DCM, the SEF or DCM shall choose the SDR; (ii) for all other swaps, the reporting counterparty, as determined in § 45.8, shall choose the SDR.

For instance, the Commission is proposing to change the heading of newly re-designated § 45.3(f) from ''Choice of SDR'' to ''Choice of swap data repository'' to be consistent with other headings throughout part 45.

Therefore, with the proposed amendments, § 45.3(f) would require that for swaps executed on or pursuant to the rules of a SEF or DCM, the SEF or DCM shall choose the SDR, and for all other swaps, the reporting counterparty, as determined in § 45.8, shall choose the SDR.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 45.3. The Commission also invites specific comment on the following:

(2) Is the Commission's proposed T+1 deadline for reporting required swap creation data appropriately harmonized with the deadlines set by other regulators and jurisdictions?

(3) Does the Commission's proposed T+1 deadline create any problems for SEFs, DCMs, SDRs, or reporting counterparties by referencing eastern time? Should the Commission instead adopt a definition that aligns with other regulations, including, for instance, the definition of ''day of execution'' in § 23.501(a)(5)(i)?[84]

(4) Do any of the Commission's proposed changes to the timing deadlines for reporting required swap creation data in § 45.3 raise issues with the sequencing of messages for SDRs that could compromise data quality? For instance, could a T+1 deadline for reporting original swaps and clearing swaps create problems for SDRs in processing swap terminations? Could the 8-hour delay for the allocation agent notifying the reporting counterparty of the actual counterparty's identity create timing message sequencing issues for allocation reporting?

D. § 45.4—Swap Data Reporting: Continuation Data

1. Introductory Text

The Commission is proposing to remove the introductory text to § 45.4 for the same reasons it is proposing to remove the introductory text to § 45.3.[85] Removing the introductory text would not impact any regulatory requirements, including those referenced in the introductory text.

2. § 45.4(a)—Continuation Data Reporting Method Generally

The Commission is proposing several changes to § 45.4(a), which concerns required swap continuation data reporting. Section 45.4(a) requires that reporting counterparties and DCOs[86]

[81] Section 45.3(e)(1) would continue to provide that the requirement may be satisfied by reporting the mixed swap to an SDR or SBSDR registered with both Commissions.

[82] The Commission is proposing to remove the definition of ''international swap'' from § 45.1, as discussed in section II.A.3 above.

[83] Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136, 2151.

[84] For the purposes of § 23.501, ''day of execution'' means the calendar day of the party to the swap transaction that ends latest, provided that if a swap transaction is—(a) entered into after 4:00 p.m. in the place of a party; or (b) entered into on a day that is not a business day in the place of a party, then such swap transaction shall be deemed to have been entered into by that party on the immediately succeeding business day of that party, and the day of execution shall be determined with reference to such business day. 17 CFR 23.501(a)(5)(i). For the purposes of § 23.501, ''business day'' means any day other than a Saturday, Sunday, or legal holiday. 17 CFR 23.501(a)(5)(ii).

[85] *See* discussion in II.C.1 above. The introductory text to § 45.4 references: The § 45.13(b) regulations for required data standards for reporting swap data to SDRs; the § 49.10 regulations for SDRs to accept swap data; the part 46 regulations for reporting pre-enactment swaps and transition swaps; the § 45.3 regulations for reporting required swap creation data; the § 45.6 regulations for the use of LEIs; the real-time public reporting requirements in part 43; and the parts 17 and 18 regulations for large trader reporting.

[86] SEFs and DCMs do not have reporting obligations with respect to required swap continuation data. DCOs are reporting counterparties for clearing swaps, and are thus responsible for reporting required swap continuation data for these swaps. However, DCOs also have required swap continuation data obligations for original swaps, to which DCOs are not counterparties. As a result, § 45.4(a) must

Continued

required to report swap continuation data must do so in a manner sufficient to ensure that all data in the SDR for a swap remains current and accurate, and includes all changes to the PET data of the swap occurring during the existence of the swap. Current § 45.4(a) further specifies that reporting entities and counterparties fulfill their obligations by reporting, within the applicable deadlines set forth in § 45.4, the following: (i) Life cycle event data to an SDR that accepts only life cycle event data reporting; (ii) state data to an SDR that accepts only state data reporting; or (iii) either life cycle event data or state data to an SDR that accepts both life cycle event data and state data reporting.

First, the Commission is proposing to revise the first two sentences. The first two sentences state that ''for each swap, regardless of asset class, reporting counterparties and [DCOs] required to report swap continuation data must do so in a manner sufficient to ensure that all data in the [SDR] concerning the swap remains current and accurate, and includes all changes to the [PET data] of the swap occurring during the existence of the swap. Reporting entities and counterparties fulfill this obligation by reporting either . . . .'' The Commission is proposing to replace the text with ''for each swap, regardless of asset class, reporting counterparties and [DCOs] required to report required swap continuation data shall report . . . .'' to improve readability without changing the regulatory requirement substantively.

Second, the Commission is proposing to remove state data reporting as an option for reporting changes to swaps from § 45.4. As background, state data reporting involves reporting counterparties re-reporting the PET terms of a swap every day, regardless of whether any changes have occurred to the terms of the swap since the last state data report.[87] In contrast, life cycle event data reporting involves reporting counterparties re-submitting the PET terms of a swap when an event has taken place that results in a change to the previously reported terms of the swap.[88]

The Commission is proposing to eliminate state data reporting because it would improve data quality without impeding the Commission's ability to fulfill the systemic risk mitigation, market transparency, position limit monitoring, and market surveillance objectives of the Dodd-Frank Act. In adopting part 45, the Commission gave reporting counterparties the option of reporting changes to swaps by either the state data reporting method or life cycle event method to provide flexibility.[89] The Commission is concerned that the option for state data reporting may be contributing to data quality issues by filling SDRs with unnecessary swap messages.

The Commission estimates that state data reporting messages represent the vast majority of swap reports maintained by SDRs and the Commission.[90] The large number of state data reporting messages has complicated the Commission's use of swap data. For instance, determining the changes that occurred over time to a five-year swap reported via state data reporting would require Commission staff to analyze all swap data elements on over 1,800 ($360 \times 5 = 1{,}800$) state data swap reports associated with the swap.

Other regulators have taken approaches that are less receptive to state data reporting. The SEC, for instance, stated that ''Regulation SBSR would not prevent a registered SDR from developing for its members a mechanism or other service that automates or facilitates the production of life cycle events from state data.''[91] However, with respect to state data reporting generally, the SEC noted that it ''is not sufficient merely to re-report all of the terms of the security-based swap each day without identifying which data elements have changed.''[92] Similarly, ESMA requires maintaining a reporting log containing the reporting of ''modifications'' to the data registered in TRs.[93] With these modifications, ESMA requires the identity of the person or persons requesting the modification, including the TR itself if applicable, the reason or reasons for such modification, a date and timestamp, and a clear description of the changes, including the old and new contents of the relevant data.[94]

In light of the foregoing, the Commission is proposing to remove the option for state data reporting in § 45.4. The Commission preliminarily believes that this would simplify swap reporting by significantly reducing swap message traffic to only those messages corresponding with a change in the terms of a swap. All terms would continue to be reported with each change, but the event and action type swap data elements would indicate the changes that have been made to the swap transaction.[95] This approach would facilitate the Commission's analysis of swap data by drastically reducing the number of messages that would need to be analyzed for each swap. Moreover, this approach would be consistent with the approach taken by other regulators.

Therefore, proposed § 45.4(a) would require that for each swap, regardless of asset class, reporting counterparties and DCOs required to report required swap continuation data shall report life cycle event data for the swap electronically to an SDR in the manner provided in § 45.13(a) within the applicable deadlines set forth in § 45.4.[96]

3. § 45.4(b)—Continuation Data Reporting for Clearing Swaps

The Commission is proposing several revisions to the § 45.4(b) required swap continuation data reporting requirements for clearing swaps. First, the Commission is proposing to move the § 45.4(b) required swap continuation data reporting regulations for clearing swaps to revised § 45.4(c). The Commission is then proposing to redesignate current § 45.4(c) as § 45.4(b). Current § 45.4(c) contains the continuation data reporting regulations for original swaps. As revised, newly re-designated § 45.4(b) would be titled

address reporting counterparties and DCOs separately.

[87] 17 CFR 45.1 (definition of ''state data''). The Commission is proposing to remove the definition of ''state data'' from § 45.1, as discussed in section II.A.3 above.

[88] 17 CFR 45.1 (definition of ''life cycle event''). The Commission is proposing to amend the definition of ''life cycle event data'' in § 45.1, as discussed in section II.A.2 above.

[89] Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136, 2153.

[90] For instance, an analysis of part 45 data showed that during January 2018, SDRs received approximately 30 million state data reporting messages, which included over 77% of all interest rate swap reports submitted to SDRs during that time period. Since reporting began, the Commission estimates that SDRs have received and made available to the Commission over a billion state data reporting messages.

[91] *See* Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information, 80 FR 14564, 14640 n.692. The SEC explained that its § 901(e)(1) ''requires the reporting of a life cycle event . . . that results in a change to information previously reported pursuant to [§] 901(c), 901(d), or 901(i). Thus, Rule 901(e)(1) contemplates the reporting of the specific changes to previously reported information. Reports of life cycle events, therefore, must clearly identify the nature of the life cycle event for each security-based swap.''

[92] *Id.*

[93] Commission Delegated Regulation (EU) No 148/2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards on the minimum details of the data to be reported to trade repositories, Article 4 (Dec. 19, 2012).

[94] *Id.*

[95] The swap data elements required to be reported to SDRs are discussed in section V below.

[96] The deadlines for reporting required swap continuation data are discussed in the following two sections.

''Continuation data reporting for original swaps.''

Revised § 45.4(c) would contain the continuation data reporting requirements for all swaps other than original swaps, which would include clearing swaps. The revisions to the continuation data requirements for clearing swaps and uncleared swaps are discussed in section II.D.4 below. The revisions to the continuation data requirements for original swaps in revised § 45.4(b) will be discussed in this section.

Second, the Commission is proposing several amendments to the continuation data reporting regulations for original swaps in § 45.4(c), proposed to be redesignated as § 45.4(b). Current § 45.4(c) requires that required swap continuation data, including terminations, must be reported to the SDR to which the original swap that was accepted for clearing was reported pursuant to § 45.3(a) through (d).[97] For continuation data, § 45.4(c)(1) requires: (i) Life cycle event data or state data reporting either on the same day that any life cycle event occurs with respect to the swap, or daily for state data reporting; and (ii) daily valuation data. In addition, § 45.4(c)(2) requires the reporting of: (i) The LEI of the SDR to which all required swap creation data for each clearing swap was reported by the DCO pursuant to § 45.3(e); (ii) the USI of the original swap that was replaced by the clearing swaps; and (iii) the USI of each clearing swap that replaces a particular original swap.

The Commission is proposing to extend the deadline for reporting swap continuation data for original swaps in § 45.4(c)(1). As explained in sections II.C.2.a and II.C.2.b above, the Commission is proposing to extend the deadlines for reporting required swap creation data in § 45.3 for swaps executed on SEFs and DCMs and those executed off-facility to either T+1 or T+2, depending on the reporting counterparty.[98] As a result, the Commission reviewed the reporting deadlines for required swap continuation data to ensure the amendments to the required swap creation data reporting deadlines do not conflict.

In reviewing the continuation data reporting deadlines, the Commission also considered those set by other regulators. For instance, the SEC requires that any events that would result in a change in the information reported to a SBSDR be reported within 24 hours of the event taking place.[99] EMIR similarly requires that contract modifications be reported no later than the working day following the modification.[100] Both the SEC and ESMA generally have the same deadlines for reporting new swaps as well as amendments, though the deadline may be more than 24 hours in Europe depending on when the trade was concluded and if the following day is a working day.

Original swaps are swaps that are accepted for clearing by a DCO. Because they are cleared, the original swap reporting counterparties do not report continuation data for original swaps to SDRs. However, the Commission believes aligning the required swap creation data deadlines with the required swap continuation data deadlines would be consistent with the approach taken by other regulators. In light of the foregoing, the Commission is proposing to extend the deadline for reporting continuation data for original swaps to T+1 following any life cycle event.

The Commission is also proposing to remove the references to state data reporting[101] in § 45.4(b) and to clarify that required swap continuation data must be reported ''electronically.'' As explained earlier in this proposal, this should be current practice. In addition, the Commission is proposing to update various cross references and make non-substantive language edits to improve readability.

Therefore, proposed § 45.4(b) would require that for each original swap, the DCO shall report required swap continuation data, including terminations, electronically to the SDR to which the swap that was accepted for clearing was reported pursuant to § 45.3 in the manner provided in § 45.13(a) and in § 45.4, and such required swap continuation data shall be accepted and recorded by such SDR as provided in § 49.10. Revised § 45.4(b)(1) would require that the DCO that accepted the swap for clearing shall report all life cycle event data electronically to an SDR in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the next business day following the day, as determined according to eastern time, that any life cycle event occurs with respect to the swap.

Revised § 45.4(b)(2) would continue to require that in addition to all other required swap continuation data, life cycle event data shall include: (i) The LEI of the SDR to which all required swap creation data for each clearing swap was reported by the DCO pursuant to § 45.3(b); (ii) the UTI of the original swap that was replaced by the clearing swaps; and (iii) the UTI of each clearing swap that replaces a particular original swap.

4. § 45.4(c)—Continuation Data for Original Swaps

The Commission is proposing several amendments to the § 45.4(c) regulations for reporting required swap continuation data for original swaps. First, the Commission is proposing to move the required swap continuation data reporting requirements for original swaps from § 45.4(c) to § 45.4(b). The Commission is proposing to move the continuation data reporting requirements for clearing swaps from § 45.4(b) to § 45.4(c), and combine them with the continuation data reporting requirements for uncleared swaps currently located in § 45.4(d). The Commission is proposing to retitle § 45.4(c) ''Continuation data reporting for swaps other than original swaps'' to reflect the combination.

The Commission is proposing several revisions to the continuation data reporting regulations for clearing swaps and uncleared swaps in § 45.4(b) and (d), respectively, which are proposed to be redesignated as § 45.4(c). The revisions to the continuation data requirements for original swaps are discussed in section II.D.3 above. The revisions to the continuation data requirements for clearing swaps and uncleared swaps to be combined in revised § 45.4(c) will be discussed below in this section.

Current § 45.4(b) requires that for all clearing swaps, DCOs must report: (i) Life cycle event data or state data reporting either on the same day that any life cycle event occurs with respect to the swap, or daily for state data reporting; and (ii) daily valuation data. Current § 45.4(d) requires that for all uncleared swaps, including swaps executed on a SEF or DCM, the reporting counterparty must report: (i) All life cycle event data on the same day for SD/MSP reporting counterparties, or the second business day if it relates to a corporate event of the non-reporting counterparty, or state data daily; (ii) all

[97] The regulation also specifies the information must be reported in the manner provided in § 45.13(b) and in § 45.4, and must be accepted and recorded by such SDR as provided in § 49.10. 17 CFR 45.4(c).

[98] The background to these proposed amendments is discussed in connection with the proposed revisions to the required swap creation data reporting deadlines in § 45.3(a) and (b), discussed in sections II.C.2.a and II.C.2.b, respectively, above.

[99] 17 CFR 242.900(g); 17 CFR 242.901(e).

[100] Reg. 648/2012 Art. 9(1).

[101] The background to this proposed amendment is discussed in connection with the proposed removal of the state data reporting regulations from § 45.4(a), discussed in section II.D.2 above.

life cycle event data on the next business day for non-SD/MSP reporting counterparties, or the end of the second business day if it relates to a corporate event of the non-reporting counterparty, or state data daily; (iii) daily valuation data for SD/MSP reporting counterparties; and (iv) the current daily mark of the transaction as of the last day of each fiscal quarter, within 30 calendar days of the end of each fiscal quarter for non-SD/MSP reporting counterparties.[102]

The Commission is proposing to revise the life cycle event reporting deadlines for these swaps to reflect the revisions proposed to the § 45.3(b) required swap creation data reporting deadlines and the § 45.4(b) original swap continuation data reporting deadlines.[103] The Commission is proposing to change the life cycle event reporting deadline for SD/MSP/DCO reporting counterparties from the same day to T+1 following any life cycle event.[104] The Commission is proposing to update the exception for corporate events of the non-reporting counterparty to T+2.

For non-SD/MSP/DCO reporting counterparties, the Commission is proposing to change the life cycle event reporting deadline to T+2 following the life cycle event.

The Commission is also proposing to remove the references to state data reporting in revised § 45.4(c).[105] The Commission is also proposing to clarify that required swap continuation data must be reported ''electronically.'' The Commission is also proposing to update various cross references and make non-substantive language edits to improve readability.

The Commission is also proposing revisions to the requirements for reporting swap valuation data for all reporting counterparties. As background, DCOs, SDs, and MSPs report valuation data daily, while non-SD/MSP reporting counterparties report the daily mark of transactions quarterly.[106] For DCO, SD, and MSP reporting counterparties, the Commission is proposing to maintain the daily reporting requirement. However, the Commission is proposing to expand the requirement to include margin and collateral data.[107]

As background, the Commission decided not to require collateral data reporting when it adopted part 45 in 2012. At the time, both the Commission and industry understood that collateral information was important for systemic risk management, but was not yet possible to include in transaction-based reporting since it was calculated at the portfolio level.[108] In light of this limitation, the Commission required that the daily mark be reported for swaps as valuation data, but not collateral.[109] However, the Commission noted that while the industry had not yet developed data elements suitable for representing the terms required to report collateral, the Commission could revisit the issue in the future if and when industry and SDRs develop ways to represent electronically the terms required for reporting collateral.[110]

The Commission is concerned that not having margin and collateral data impedes its ability to fulfill the systemic risk mitigation objectives of the Dodd-Frank Act. As a result, the Commission is revisiting this issue as the Commission noted in 2012 to determine whether it is now feasible.

DMO raised the issue of and received comments on new margin and collateral reporting as part of the Roadmap review. Some commenters opposed such reporting,[111] with one recommending that the Commission look for alternative means to collect the data.[112] One commenter indicated that increased harmonization with ESMA on issues such as margin data collection could be helpful.[113]

Other regulators have taken different approaches to margin and collateral data reporting. The SEC does not require reporting of any valuation data or margin and collateral data, for security-based swaps.[114] ESMA, in contrast, requires the reporting of many of the same collateral and margin swap data elements the Commission is proposing to require, either on a portfolio basis or by transaction.[115] With respect to valuation data, ESMA requires central counterparties to report valuations for cleared swaps as the Commission does.[116] EMIR does provide an exemption from valuation reporting, as well as reporting margin and collateral data, for non-financial counterparties, unless they exceed a threshold of derivatives activity.[117]

The Commission believes margin and collateral data is necessary to monitor risk in the swaps market. Given that ESMA is already requiring collateral reporting, and that the Commission is proposing to require many of the swap data elements that ESMA requires, the Commission believes industry is ready to report this data to SDRs.

However, the Commission is concerned that valuation, margin, and collateral data reporting could create a significant burden for non-SD/MSP/DCO reporting counterparties. The Commission is aware that these entities may be smaller and less active in the swaps market, with fewer resources to devote to reporting this complex data. The Commission also recognizes that the quarterly valuation data these counterparties report is not integral to the Commission's ability to monitor systemic risk in the swaps market and may not justify the cost to these entities to report it. The Commission is therefore proposing to remove the current requirement for non-SD/MSP/DCO

[102] If a daily mark of the transaction is not available for the swap, the reporting counterparty satisfies the requirement by reporting the current valuation of the swap recorded on its books in accordance with applicable accounting standards. 17 CFR 45.4(d)(2)(ii).

[103] The background to these proposed revisions is discussed in connection with the proposed revisions to the required swap creation data reporting deadlines for off-facility swaps in revised § 45.3(b) and the required swap continuation data deadlines for original swaps in § 45.4(b), discussed in sections II.C.2.b and II.D.3, respectively, above.

[104] The Commission is not similarly proposing to extend the valuation data reporting deadline for SD/MSP/DCO reporting counterparties. The Commission preliminarily believes that valuation data should not be similarly delayed because SDs, MSPs, and DCOs are already creating daily valuations and tracking margin and collateral for reasons independent of their swap reporting obligations.

[105] The background to this proposed amendment is discussed in connection with the proposed removal of the state data reporting regulations from § 45.4(a), discussed in section II.D.2 above.

[106] 17 CFR 45.4(b)(2) and (d)(2).

[107] The Commission is proposing to add a definition of ''collateral data'' to § 45.1(a), as discussed in section II.A.1 above. As proposed ''collateral data'' would mean the data elements necessary to report information about the money, securities, or other property posted or received by a swap counterparty to margin, guarantee, or secure a swap, as specified in appendix 1 to part 45.

[108] Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136, 2153.

[109] 17 CFR 45.1 (definition of ''valuation data''). The Commission is proposing to amend the definition of ''valuation data'' in § 45.1(a), as discussed in section II.A.2 above. As amended, ''valuation data'' would mean the data elements necessary to report information about the daily mark of the transaction, pursuant to CEA section 4s(h)(3)(B)(iii), and to § 23.431 if applicable, as specified in appendix 1 to part 45.

[110] Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136, 2154.

[111] Letter from American Counsel of Life Insurers (''ACLI'') (Aug. 21, 2017) at, 2–3 (asserting that margin data would not ''be constructive'' and the burden would outweigh any benefit); Letter from CEWG at 3; Joint ISDA–SIFMA Letter at 8.

[112] Joint ISDA–SIFMA Letter at 8.

[113] Letter from Chatham at 5.

[114] Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information, 80 FR 14564, 14590 (noting that SEC will continue to assess the reporting and public dissemination regime under Regulation SBSR and could determine to propose additional requirements, such as the reporting of valuations, as necessary or appropriate.).

[115] The collateral and margin data elements themselves are included below in section V.

[116] Reg. 148/2013 Art. 3(5).

[117] Reg. 148/2013 Art. 3(4); Reg. 648/2012 Art. 10.

reporting counterparties to report valuation data in § 45.4(d)(2)(ii). The Commission is also proposing not to require non-SD/MSP/DCO reporting counterparties to report margin and collateral data. The Commission preliminarily believes this would relieve these counterparties from unnecessary burdens without impacting the Commission's ability to monitor systemic risk. The Commission also notes this change would be consistent with the approach taken by ESMA (and the SEC, insofar as the SEC does not require reporting of margin and collateral data from any type of market participant).

In light of the foregoing, the Commission is proposing to require margin and collateral reporting for reporting counterparties that are SDs, MSPs, and DCOs in § 45.4(c)(2). Proposed § 45.4(c) would require that for each swap that is not an original swap, including clearing swaps and swaps not cleared by a DCO, the reporting counterparty report all required swap continuation data electronically to an SDR in the manner provided in § 45.13(a) as provided in § 45.4(c). Proposed § 45.4(c)(1)(i) would require that SD/MSP/DCO reporting counterparties report life cycle event data electronically to an SDR in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the next business day following the day, as determined according to eastern time, that any life cycle event occurred, with the sole exception that life cycle event data relating to a corporate event of the non-reporting counterparty shall be reported in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the second business day following the day, as determined according to eastern time, that such corporate event occurred.

Proposed § 45.4(c)(1)(ii) would require that non-SD/MSP/DCO reporting counterparties report life cycle event data electronically to an SDR in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the second business day following the day, as determined according to eastern time, that any life cycle event occurred.

Proposed § 45.4(c)(2) would require that SD/MSP/DCO reporting counterparties report swap valuation data and collateral data electronically to an SDR in the manner provided in § 45.13(b) each business day.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 45.4. The Commission also invites specific comment on the following:

(5) Are the Commission's proposed T+1 and T+2 deadlines for reporting required swap continuation data appropriately harmonized with the deadlines set by other regulators and jurisdictions to benefit market participants? Do the Commission's proposed T+1 and T+2 deadlines for reporting required swap continuation data create any operational issues for reporting counterparties that the Commission has not considered?

(6) Is the requirement to report margin and collateral data without distinction for whether a swap is cleared or uncleared redundant with existing part 39 reporting requirements for cleared swaps? Are there efficiencies for reporting counterparties to submit both cleared and uncleared margin and collateral data together to SDRs?

(7) Does the Commission's proposal to no longer require non-SD/MSP/DCO reporting counterparties to report valuation data raise any concerns about the Commission's ability to monitor systemic risk in the U.S. swaps market?

E. § 45.5—Unique Transaction Identifiers

The Commission is proposing amendments to § 45.5 for USIs. In general, the Commission is proposing to amend § 45.5(a) through (f) to require each swap to be identified with a UTI in all recordkeeping and all swap data reporting, and to require that the UTI be comprised of the LEI of the generating entity and a unique alphanumeric code. The proposed amendments to § 45.5(a) through (f) are discussed in sections II.E.1 to II.E.7 below.

In general, § 45.5 requires each swap to be identified with a USI in all recordkeeping and all swap data reporting, and requires that the USI be comprised of the identifier assigned by the Commission to the generating entity and a unique alphanumeric code. In response to the Roadmap, the Commission received comment letters supporting adoption of the UTI and UPI standards as part of the review.[118]

Because the current USI requirement was implemented prior to global consensus on the structure and format for a common swap identifier, the Commission preliminarily believes that amending § 45.5 to require each swap to be identified with a UTI in all recordkeeping and all swap data reporting and to require that the UTI be comprised of the LEI of the generating entity and a unique alphanumeric code will result in the structure and format for the swap identifier being consistent with the UTI Technical Guidance, reduce cross-border reporting complexity and encourage global swap data aggregation.

1. Title and Introductory Text

The Commission is proposing several conforming amendments to the § 45.5 title and the introductory text. Current § 45.5 is titled ''Unique swap identifiers.'' The current introductory text states that each swap subject to the jurisdiction of the Commission shall be identified in all recordkeeping and all swap data reporting pursuant to part 45 by the use of a USI, which shall be created, transmitted, and used for each swap as provided in § 45.5(a) through (f).

The Commission is proposing to replace ''swap'' in the title with ''transaction'' to reflect the Commission's proposed adoption of the UTI. Accordingly, the Commission is also proposing to update the reference to USI with UTI in the introductory text.

The Commission is also proposing to update the reference to paragraphs (a) through (f) of § 45.5 to (a) through (h) of § 45.5. This amendment would reflect the Commission's proposed addition of § 45.5(g) and (h), discussed in sections II.E.8 and II.E.9 below.

Therefore, in light of the above proposed amendments, the introductory text would state that each swap shall be identified in all recordkeeping and all swap data reporting pursuant to part 45 by the use of a UTI, which shall be created, transmitted, and used for each swap as provided in paragraphs (a) through (h) of § 45.5.

2. § 45.5(a)—Swaps Executed on or Pursuant to the Rules of a SEF or DCM

The Commission is proposing several conforming amendments to § 45.5(a) for the creation and transmission of USIs for swaps executed on or pursuant to the rules of SEFs and DCMs. Current § 45.5(a)(1) requires that for swaps executed on or pursuant to the rules of SEFs and DCMs, SEFs and DCMs generate and assign USIs at or ASATP following execution, but prior to the reporting of required swap creation data, that consist of a single data field containing: (i) The unique alphanumeric code assigned to the SEF or DCM by the Commission for the purpose of identifying the SEF or DCM with respect to the USI creation; and (ii) an alphanumeric code generated and assigned to that swap by the automated systems of the SEF or DCM, which shall be unique with respect to all such codes

[118] Joint ISDA–SIFMA Letter at 4; Joint SDR Letter at 7.

generated and assigned by that SEF or DCM.[119]

Current § 45.5(a)(2) requires that the SEF or DCM transmit the USI electronically: (i) To the SDR to which the SEF or DCM reports required swap creation data for the swap, as part of that report; (ii) to each counterparty to the swap ASATP after execution of the swap; and (iii) to the DCO, if any, to which the swap is submitted for clearing, as part of the required swap creation data transmitted to the DCO for clearing purposes.[120]

First, the Commission is proposing amendments to conform to the Commission's proposed adoption of the UTI. The Commission is proposing to replace all references to USIs with UTIs in § 45.5(a)(1) through (2). In addition, the Commission is proposing to update the phrase in § 45.5(a)(1) that the USI shall consist of a single data ''field'' that contains two components to a single data ''element with a maximum length of 52 characters'' so that the length of the UTI is consistent with the UTI Technical Guidance.[121]

The Commission is also proposing to amend § 45.5(a)(1)(i) describing the first component of the UTI's single data element to replace ''unique alphanumeric code assigned to'' the SEF or DCM with ''legal entity identifier of'' the SEF or DCM so that the identifier used to identify the UTI generating entity is consistent with the UTI Technical Guidance.[122] The Commission is also proposing to delete the phrase in the second half of the sentence stating ''by the Commission for the purpose of identifying the [SEF] or [DCM] with respect to the [USI] creation,'' because, according to the UTI Technical Guidance, an LEI is used to identify the UTI generating entity instead of an identifier assigned by individual regulators.

Therefore, in light of the above proposed changes, § 45.5(a)(1)[123] would require that for swaps executed on or pursuant to the rules of SEFs or DCMs, SEFs and DCMs generate and assign UTIs at or ASATP following execution, but prior to the reporting of required swap creation data, that consist of a single data element with a maximum length of 52 characters containing: (i) The LEI of the SEF or DCM; and (ii) an alphanumeric code generated and assigned to that swap by the automated systems of the SEF or DCM, which shall be unique with respect to all such codes generated and assigned by that SEF or DCM.

3. § 45.5(b)—Off-Facility Swaps With an SD or MSP Reporting Counterparty

The Commission is proposing several amendments to § 45.5(b) for the creation and transmission of USIs for off-facility swaps by SD/MSP reporting counterparties. Current § 45.5(b)(1) requires that for off-facility swaps with SD/MSP reporting counterparties, the reporting counterparty generate and assign a USI ASATP consisting of a single data field. The single data field is to contain: (i) The unique alphanumeric code assigned to the SD or MSP by the Commission at the time of its registration for the purpose of identifying them with respect to USI creation; and (ii) an alphanumeric code generated and assigned to that swap by the automated systems of the SD or MSP, which shall be unique with respect to all such codes generated and assigned by that SD or MSP. The required USI is to be generated and assigned after execution of the swap and prior to the reporting of required swap creation data and the transmission of data to a DCO if the swap is to be cleared.

Current § 45.5(b)(2) requires that the reporting counterparty transmit the USI electronically: (i) To the SDR to which the reporting counterparty reports required swap creation data for the swap, as part of that report; and (ii) to the non-reporting counterparty to the swap, ASATP after execution of the swap; and (iii) to the DCO, if any, to which the swap is submitted for clearing, as part of the required swap creation data transmitted to the DCO for clearing purposes.

First, the Commission is proposing to expand the UTI creation and transmission requirements for SD/MSP reporting counterparties to include reporting counterparties that are financial entities.[124] The Commission preliminarily believes that amending § 45.5(b) to extend the responsibility for generating off-facility swap UTIs to reporting counterparties that are financial entities will reduce the UTI-generation burden on non-financial entities.

The Commission also believes this would more closely align the UTI generation hierarchy with the reporting counterparty determination hierarchy in § 45.8, which incorporates financial entities for purposes of determining the reporting counterparty.[125] For example, in an off-facility swap where neither counterparty is an SD nor MSP and only one counterparty is a financial entity, the counterparty that is a financial entity will be the reporting counterparty,[126] yet the SDR would generate the USI under current § 45.5(c).[127] The proposed changes to § 45.5(b) would ensure that for such swap, the financial entity would be assigned to both the reporting counterparty and to generate the UTI. This amendment to § 45.5(b) would also reduce the number of swaps for which SDRs would be required to generate the UTI.

The Commission is also proposing conforming changes. These are to replace ''swap dealer or major swap participant reporting counterparty'' in the title to § 45.5(b) with ''financial entity reporting counterparty'' and to replace ''swap dealer or major swap participant'' in the first sentence of § 45.5(b) with ''financial entity.'' As proposed, the new title of § 45.5(b) would be ''Off-facility swaps with a financial entity reporting counterparty'' and the first sentence of § 45.5(b) would begin with ''For each off-facility swap where the reporting counterparty is a financial entity . . . .''[128] The Commission is similarly proposing to replace references to ''swap dealer or major swap participant'' in § 45.5(b)(1)(i) and (ii) with ''reporting counterparty.''[129]

Second, the Commission is proposing amendments to conform to the Commission's proposed adoption of the UTI. The Commission is proposing to replace all references to USIs with UTIs in § 45.5(b)(1) through (2). In addition, the Commission is proposing to update the phrase in § 45.5(b)(1) that the USI shall consist of a single data ''field'' that contains two components to a single data ''element with a maximum length of 52 characters'' so that the length of the UTI is consistent with the UTI Technical Guidance.[130]

The Commission is also proposing to amend § 45.5(b)(1)(i) describing the first component of the UTI's single data element to replace ''unique alphanumeric code assigned to'' the SD or MSP with ''legal entity identifier of'' the reporting counterparty so that the identifier used to identify the UTI generating entity is consistent with the UTI Technical Guidance.[131] The

[119] 17 CFR 45.5(a)(1)(i) through (ii).

[120] 17 CFR 45.5(a)(2)(i) through (iii).

[121] UTI Technical Guidance, Section 3.6.

[122] UTI Technical Guidance, Section 3.5.

[123] Current § 45.5(a)(2) would remain unchanged, except for the single updated reference to UTI in § 45.5(a)(2).

[124] 17 CFR 45.1 (definition of ''financial entity'').

[125] 17 CFR 45.8.

[126] 17 CFR 45.8(c).

[127] 17 CFR 45.5(c).

[128] *See* row ''45.5(b)'' of the table in section VIII.3 below.

[129] *See* row ''45.5(b)(1)(ii)'' of the table in section VIII.3 below.

[130] UTI Technical Guidance, Section 3.6.

[131] UTI Technical Guidance, Section 3.5.

Commission is also proposing to delete the phrase in the second half of the sentence stating ''by the Commission at the time of its registration as such, for the purpose of identifying the [SD] or [MSP] with respect to the [USI] creation,'' because, according to the UTI Technical Guidance, an LEI is used to identify the UTI generating entity instead of an identifier assigned by individual regulators.

Therefore, in light of the above proposed changes, § 45.5(b)(1) [132] would require that for off-facility swaps with a financial entity reporting counterparty, the reporting counterparties generate and assign UTIs at or ASATP following execution, but prior to the reporting of required swap creation data, that consist of a single data element with a maximum length of 52 characters containing: (i) The LEI of the reporting counterparty; and (ii) an alphanumeric code generated and assigned to that swap by the automated systems of the reporting counterparty, which shall be unique with respect to all such codes generated and assigned by that reporting counterparty.

4. § 45.5(c)—Off-Facility Swaps With a Non-SD/MSP Reporting Counterparty

The Commission is proposing several amendments to § 45.5(c) for the creation and transmission of USIs for off-facility swaps by non-SD/MSP reporting counterparties. Current § 45.5(c)(1) requires that for off-facility swaps with non-SD/MSP reporting counterparties, the SDR generates and assigns a USI ASATP after receiving the first report of PET data consisting of a single data field containing: (i) The unique alphanumeric code assigned to the SDR by the Commission at the time of its registration for the purpose of identifying them with respect to USI creation; and (ii) an alphanumeric code generated and assigned to that swap by the automated systems of the SDR, which shall be unique with respect to all such codes generated and assigned by that SDR.

Current § 45.5(c)(2) requires that the SDR transmit the USI electronically: (i) To the counterparties to the swap ASATP after creation of the USI, and (ii) to the DCO, if any, to which the swap is submitted for clearing ASATP after creation of the USI.

First, the Commission is proposing to replace ''non-SD/MSP reporting counterparty'' in the title to § 45.5(c) with ''non-SD/MSP/DCO reporting counterparty that is not a financial entity'' and to replace ''reporting counterparty is a non-SD/MSP counterparty'' in the first sentence of § 45.5(c) with ''reporting counterparty is a non-SD/MSP/DCO counterparty that is not a financial entity.'' As proposed, the new title of § 45.5(c) would be ''Off-facility swaps with a non-SD/MSP/DCO reporting counterparty that is not a financial entity'' and the first sentence of § 45.5(c) would begin with ''For each off-facility swap for which the reporting counterparty is a non-SD/MSP/DCO counterparty that is not a financial entity . . . .'' As explained in section II.E.3 above, the Commission is proposing to expand UTI generation responsibilities to financial entities,[133] and preliminarily believes that this amendment is needed to clarify that proposed § 45.5(c) would apply only where a reporting counterparty is a non-SD/MSP/DCO counterparty that is not a financial entity.

Second, the Commission is proposing to amend § 45.5(c) to provide non-SD/MSP/DCO reporting counterparties that are not financial entities with the option to generate the UTI for an off-facility swap or to request that the SDR to which required swap creation data will be reported to generate the UTI. If the non-SD/MSP/DCO reporting counterparty that is not a financial entity chooses to generate the UTI for an off-facility swap, the reporting counterparty would follow the creation and transmission requirements for financial entity reporting counterparties in § 45.5(b)(1) and (2). If the non-SD/MSP/DCO reporting counterparty that is not a financial entity chooses to request the SDR to generate the UTI, the SDR would follow the creation and transmission requirements for SDRs in § 45.5(c)(1) and (2). The Commission is proposing amendments to the requirements for SDRs in § 45.5(c)(1), as discussed below.

In the Joint SDR Letter, three SDRs expressed the view that the Commission should adopt the UTI Technical Guidance without modification, after which anyone with an LEI would be able to create a USI, and SDRs would no longer need to generate and transmit UTIs.[134] The Commission participated in the preparation of the UTI Technical Guidance, which includes guidance to authorities for allocating responsibility for UTI generation, including a generation flowchart that places SDRs at the end.[135] The UTI Technical Guidance also notes that ''[n]ot all factors'' in the flowchart for allocating responsibility for UTI generation ''will be relevant for all jurisdictions.'' [136]

Because the UTI Technical Guidance was produced with the need to accommodate the different trading patterns and reporting rules in jurisdictions around the world, certain factors included in the UTI Technical Guidance generation flowchart are not applicable for the Commission (*e.g.,* factors relating to the principal clearing model [137] or electronic confirmation platforms),[138] and therefore the Commission is unable to adopt the UTI Technical Guidance without modification. However, the Commission preliminarily believes that none of the provisions of amended § 45.5 conflict with the UTI Technical Guidance, including maintaining the existing obligations for SDRs to generate and transmit UTIs. While UTI generation and transmission responsibilities by SDRs remain in amended § 45.5(c), the Commission also preliminarily believes that the proposed alignment of the UTI generation and reporting counterparty determination for financial entities in amended § 45.5(b) and the proposed reporting option for counterparties that are neither DCOs nor financial entities in amended § 45.5(c) will result in reduced overall UTI generation and transmission burdens for SDRs.

The Commission preliminarily believes that amending § 45.5(c) to provide the reporting counterparty with the option to generate the UTI for an off-facility swap where the reporting counterparty is neither a DCO nor financial entity or, if the reporting counterparty elects not to generate the UTI, to request that the SDR to which required swap creation data will be reported to generate the UTI will simultaneously: (i) Provide a reporting counterparty that is neither a DCO nor financial entity with the flexibility to generate the UTI should it choose to do so; and (ii) reduce the number of swaps where an SDR is assigned with UTI generation responsibilities, while also maintaining the existing SDR role as a guarantee that every off-facility swap will be identified with a UTI.

Third, the Commission is proposing amendments to conform to the Commission's proposed adoption of the

[132] Current § 45.5(b)(2) would remain unchanged, except for the single updated reference to UTI in § 45.5(b)(2).

[133] 17 CFR 45.1 (definition of ''financial entity'').

[134] Joint SDR Letter at 7–8.

[135] UTI Technical Guidance at 12–14.

[136] UTI Technical Guidance at 12.

[137] UTI Technical Guidance at 12 (Step 2: ''Is a counterparty to this transaction a clearing member of a CCP, and if so is that clearing member acting in its clearing member capacity for this transaction?'').

[138] UTI Technical Guidance at 12 (Step 6: ''Has the transaction been electronically confirmed or will it be and, if so, is the confirmation platform able, willing and permitted to generate a UTI within the required time frame under the applicable rules?'').

UTI. The Commission is proposing to replace all references to USIs with UTIs in § 45.5(c)(1) through (2). In addition, the Commission is proposing to update the phrase in § 45.5(c)(1) that the USI shall consist of a single data ''field'' that contains two components to a single data ''element with a maximum length of 52 characters'' so that the length of the UTI is consistent with the UTI Technical Guidance.[139]

The Commission is also proposing to amend § 45.5(c)(1)(i) describing the first component of the UTI's single data element to replace ''unique alphanumeric code assigned to'' the SDR with ''legal entity identifier of'' the SDR so that the identifier used to identify the UTI generating entity is consistent with the UTI Technical Guidance.[140] The Commission is also proposing to delete the phrase in the second half of the sentence stating ''by the Commission at the time of its registration as such, for the purpose of identifying the [SDR] with respect to the [USI] creation,'' because, according to the UTI Technical Guidance, an LEI is used to identify the UTI generating entity instead of an identifier assigned by individual regulators.

Therefore, in light of the above proposed amendments, § 45.5(c)(1)[141] would require that for swaps with a non-SD/MSP/DCO reporting counterparty that is not a financial entity, the reporting counterparty shall either create and transmit a UTI as provided in § 45.5(b)(1) and § 45.5(b)(2), or request that the SDR to which it reports required swap creation data create and transmit one pursuant to § 45.5(c)(1) or (c)(2).

Proposed § 45.5(c)(1) would provide that the SDR generate and assign UTIs at or ASATP following receipt of a request from the reporting counterparty, that consist of a single data element with a maximum length of 52 characters containing: (i) The LEI of the SDR; and (ii) an alphanumeric code generated and assigned to that swap by the automated systems of the SDR, which shall be unique with respect to all such codes generated and assigned by that SDR.

5. § 45.5(d)—Clearing Swaps

The Commission is proposing several amendments to the § 45.5(d) regulations for the creation and transmission of USIs for clearing swaps. Current § 45.5(d) requires that for each clearing swap, the DCO that is a counterparty to such swap shall create and transmit a USI upon, or ASATP after, acceptance of an original swap for clearing, or execution of a clearing swap that does not replace an original swap, and prior to the reporting of required swap creation data for the clearing swap. Current § 45.5(d)(1) requires that the USI shall consist of a single data field that contains: (i) The unique alphanumeric code assigned to the DCO by the Commission for the purpose of identifying it with respect to USI creation; and (ii) an alphanumeric code generated and assigned to that clearing swap by the automated systems of the DCO, which shall be unique with respect to all such codes generated and assigned by that DCO.

Current § 45.5(d)(2) requires that the DCO transmit the USI electronically to: (i) The SDR to which the DCO reports required swap creation data for the clearing swap; and (ii) to the counterparty to the clearing swap, ASATP after accepting the swap for clearing or executing the swap, if it does not replace an original swap.

First, the Commission is proposing to retitle the section ''Off-facility swaps with a [DCO] reporting counterparty.'' The Commission is proposing to rephrase the introductory text in § 45.5(d) to reflect this shift in terminology.

Second, the Commission is proposing amendments to conform to the Commission's proposed adoption of the UTI. The Commission is proposing to replace all references to USIs with UTIs in § 45.5(d)(1) through (2). In addition, the Commission is proposing to update the phrase in § 45.5(d)(1) that the USI shall consist of a single data ''field'' that contains two components to a single data ''element with a maximum length of 52 characters'' so that the length of the UTI is consistent with the UTI Technical Guidance.[142]

The Commission is also proposing to amend § 45.5(d)(1)(i) describing the first component of the UTI's single data element to replace ''unique alphanumeric code assigned to the ''DCO reporting counterparty with ''legal entity identifier of'' the DCO so that the identifier used to identify the UTI generating entity is consistent with the UTI Technical Guidance.[143] The Commission is also proposing to delete the phrase in the second half of the sentence stating ''by the Commission at the time of its registration as such, for the purpose of identifying the [DCO] with respect to the [USI] creation,'' because, according to the UTI Technical Guidance, an LEI is used to identify the UTI generating entity instead of an identifier assigned by individual regulators.

Therefore, in light of the above proposed amendments, § 45.5(d)(1)[144] would require that for off-facility swaps with a DCO reporting counterparty, the reporting counterparty generate and assign UTIs at or ASATP following clearing or execution, but prior to the reporting of required swap creation data for the clearing swap, that consist of a single data element with a maximum length of 52 characters containing: (i) The LEI of the DCO; and (ii) an alphanumeric code generated and assigned to that swap by the automated systems of the DCO, which shall be unique with respect to all such codes generated and assigned by that DCO.

6. § 45.5(e)—Allocations

The Commission is proposing several amendments to the § 45.5(e) regulations for the creation and transmission of USIs for allocations. The Commission is proposing to replace references to USIs with UTI throughout § 45.5(e) to conform to the Commission's proposed adoption of the UTI. The Commission is also proposing non-substantive technical and language edits to update cross-references and improve readability.

7. § 45.5(f)—Use

The Commission is proposing several amendments to the § 45.5(f) regulations for the use of UTIs by registered entities and swap counterparties. Current § 45.5(f) requires that registered entities and swap counterparties subject to the jurisdiction of the Commission include the USI for a swap in all of its records and all of its swap data reporting concerning that swap, from the time it creates or receives the USI, throughout the existence of the swap and for as long as any records are required by the CEA or Commission regulations to be kept concerning the swap, regardless of any life cycle events or any changes to state data concerning the swap, including, without limitation, any changes with respect to the counterparties to or the ownership of the swap.

Section 45.5(f) also specifies that this requirement shall not prohibit the use by a registered entity or swap counterparty in its own records of any additional identifier or identifiers internally generated by the automated systems of the registered entity or swap counterparty, or the reporting to an

[139] UTI Technical Guidance, Section 3.6.

[140] UTI Technical Guidance, Section 3.5.

[141] Current § 45.5(c)(2) would remain unchanged, except for the updated references to UTI in § 45.5(b)(2)(i)(A) through (B).

[142] UTI Technical Guidance, Section 3.6.

[143] UTI Technical Guidance, Section 3.5.

[144] Current § 45.5(d)(2) would remain unchanged, except for the single updated reference to UTI in § 45.5(d)(2).

SDR, the Commission, or another regulator of such internally generated identifiers in addition to the reporting of the USI.

First, the Commission is proposing amendments to conform to the Commission's proposed adoption of the UTI. The Commission is proposing to replace all references to USIs with UTIs in § 45.5(f). The Commission is also proposing to remove the reference to state data in the regulation,[145] and make minor technical language edits, including removing reference to ownership of the swap, which is not needed given the reference to counterparties.

Second, the Commission is proposing to remove the provision permitting the reporting of any additional identifier or identifiers internally generated by the automated systems of the registered entity or swap counterparty to an SDR, the Commission, or another regulator. The Commission believes this amendment would improve consistency in the swap data reported to SDRs, and further the goal of harmonization of SDR data across Financial Stability Board (''FSB'') member jurisdictions.

Therefore, in light of the above proposed amendments, § 45.5(f) would require that registered entities and swap counterparties include the UTI for a swap in all of their records and all of their swap data reporting concerning that swap, from the time they create or receive the UTI, throughout the existence of the swap and for as long as any records are required by the CEA or Commission regulations to be kept concerning the swap, regardless of any life cycle events concerning the swap, including, without limitation, any changes with respect to the counterparties to the swap.

8. § 45.5(g)—Third-Party Service Provider

The Commission is proposing to add new § 45.5(g) to its regulations, titled ''Third-party service provider.'' Proposed § 45.5(g) would create requirements for registered entities and reporting counterparties to, when contracting with third-party service providers to facilitate reporting pursuant to § 45.9, ensure that the third-party service providers create and transmit UTIs.[146]

As background, the Commission has encountered inconsistencies in the format and standard of USIs for swaps reported using third-party service providers. The Commission preliminarily believes that proposed § 45.5(g) will help ensure consistency with the UTI Technical Guidance in the format and standard of UTIs for swaps reported by third-party service providers. The Commission further believes that proposed § 45.5(g) will reinforce the existing responsibility of a registered entity or reporting counterparty under § 45.9 for the data reported on its behalf by a third-party service provider.

Therefore, proposed § 45.5(g) would provide that if a registered entity or reporting counterparty required by part 45 to report required swap creation data or required swap continuation data contracts with a third-party service provider to facilitate reporting pursuant to § 45.9, the registered entity or reporting counterparty ensures that such third-party service provider creates and transmits the UTI as otherwise required for such category of swap by § 45.5(a) through (e). It would further provide that the UTI shall consist of a single data element with a maximum length of 52 characters that contains: (i) The LEI of the third-party service provider; and (ii) an alphanumeric code generated and assigned to that swap by the automated systems of the third-party service provider, which shall be unique with respect to all such codes generated and assigned by that third-party service provider.

9. § 45.5(h)—Cross-Jurisdictional Swaps

The Commission is proposing to add new § 45.5(h) to its regulations, titled ''Cross-jurisdictional swaps.'' Proposed § 45.5(h) would clarify that if a swap is also reportable to one or more other jurisdictions with a regulatory reporting deadline earlier than the deadline set forth in § 45.3, the swap is to be identified in all reporting pursuant to part 45 with the same UTI that has been generated according to the rules of the jurisdiction with the earliest regulatory reporting deadline.

The Commission believes that the benefits resulting from global swap data aggregation and harmonization are realizable only if each swap is identified in all regulatory reporting worldwide with a single UTI so as to avoid double- or triple-counting of the swap. While the current requirement in part 45 for swap creation data to be reported ASATP after execution results in the Commission having the earliest regulatory reporting deadline, changes to the reporting deadline in proposed amendments to § 45.3 may result in a cross-jurisdictional swap being required to be reported to another jurisdiction earlier than to the Commission. Because the Commission considers it critical that only one unique UTI is used to identify each swap, whether reportable only to the Commission or to multiple jurisdictions, the Commission proposes that, if a cross-jurisdictional swap is reportable to another jurisdiction earlier than required under part 45, the UTI for such swap reported pursuant to part 45 be generated according to the rules of the jurisdiction with the earliest regulatory reporting deadline.

The Commission preliminarily believes that the new proposed provision would: (i) Ensure consistency with the UTI Technical Guidance;[147] (ii) assist the Commission, SDRs, and swap counterparties to avoid potentially identifying a single cross-jurisdictional trade with multiple UTIs; and (iii) eliminate the potential for market participants to be faced with a situation of attempting to comply with conflicting UTI generation rules.

Therefore, proposed § 45.5(h) would require that notwithstanding the provisions of § 45.5(a) through (g), if a swap is also reportable to one or more other jurisdictions with a regulatory reporting deadline earlier than the deadline set forth in § 45.3, the same UTI generated according to the rules of the jurisdiction with the earliest regulatory reporting deadline shall be transmitted pursuant to § 45.5(a)–(g) and used in all recordkeeping and all swap data reporting pursuant to part 45.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 45.5.

F. § 45.6—Legal Entity Identifiers[148]

1. Introductory Text

The Commission is proposing amendments to the introductory text of the § 45.6 regulations for LEIs. The current introductory text states that each counterparty to any swap subject to the jurisdiction of the Commission shall be identified in all recordkeeping and all swap data reporting pursuant to part 45 by means of a single LEI as specified in § 45.6.

First, the Commission is proposing to replace ''each counterparty'' with each SEF, DCM, DCO, SDR, entity reporting pursuant to § 45.9, and counterparty to any swap. The Commission believes a list of entities would be more precise and help market participants referring to the introductory text.

Second, the Commission is proposing to revise the introductory text to require

[145] *See* discussion in section II.D.2 above.

[146] 17 CFR 45.9.

[147] UTI Technical Guidance at 13 (Step 10: ''UTI generation rules of the jurisdiction with the sooner reporting deadline should be followed'').

[148] The Commission is proposing to re-number the requirements of § 45.6 to correct current extensive numbering errors.

each SEF, DCM, DCO, SDR, entity reporting pursuant to § 45.9, and counterparty to any swap that is eligible to receive an LEI to ''obtain'' as well as be identified in all recordkeeping and swap data reporting by a single LEI. The Commission is aware of uncertainty as to whether the requirement to identify each counterparty with an LEI in current § 45.6 also includes a requirement for the counterparty to obtain an LEI, and the Commission preliminarily believes that amending § 45.6 to clarify that a person or entity required to be identified with an LEI in recordkeeping and swap data reporting also has an associated affirmative requirement to obtain an LEI will clarify that identification using LEI necessarily requires the identified person or entity, if eligible to receive an LEI, to obtain an LEI.

The Commission also preliminarily believes that extending the requirement for each counterparty to any swap to be identified in all recordkeeping and swap data reporting by a single LEI to all SEFs, DCMs, DCOs, entities reporting pursuant to § 45.9, and SDRs will ensure consistency with the CDE Technical Guidance, allow for standardization in the identification in recordkeeping and swap data reporting, and encourage global swap data aggregation.

Therefore, in light of the above proposed amendments, the introductory text to § 45.6 would state that each SEF, DCM, DCO, SDR, entity reporting pursuant to § 45.9, and counterparty to any swap eligible to receive an LEI shall obtain and be identified in all recordkeeping and all swap data reporting pursuant to part 45 by a single LEI as specified in § 45.6.

2. § 45.6(a)—Definitions

The Commission is proposing several changes to the definitions for the LEI regulations in § 45.6(a). As background, current § 45.6(a) provides definitions for ''control,'' ''legal identifier system,'' ''level one reference data,'' ''level two reference data,'' ''parent,'' ''self-registration,'' ''third-party registration,'' and ''ultimate parent.''

The Commission is proposing to move certain definitions pertaining to LEIs to § 45.1(a). The Commission believes these definitions should be in § 45.1(a) because they are used in regulations outside of § 45.6. These definitions are: ''Global Legal Entity Identifier System,'' [149] ''legal entity identifier'' or ''LEI,'' and ''Legal Entity Identifier Regulatory Oversight Committee.'' These definitions are discussed in section II.A.1 above.

The Commission is also proposing to remove certain definitions pertaining to LEIs from § 45.6(a). These definitions would no longer be necessary in light of the proposed amendments to the LEI regulations, discussed in sections II.F.3 to II.F.8 below. These definitions are: ''control,'' ''level one reference data,'' ''level two reference data,'' ''parent,'' and ''ultimate parent.''

The Commission is proposing to amend certain definitions pertaining to LEIs in § 45.6(a). The Commission is proposing to amend the definition of ''self-registration'' in several respects. First, the Commission is proposing to remove the specific reference to ''level one or level two'' reference data, and the accompanying specifier ''as applicable.'' This amendment would reflect the Commission's proposal to remove the definitions of ''level one reference data'' and ''level two reference data.'' [150]

Second, the Commission is proposing to add a reference to ''individuals,'' to reflect the fact that swap counterparties may be individuals who need to obtain LEIs. As amended, ''self-registration'' would mean submission by a legal entity or individual of its own reference data.

The Commission is also proposing to amend the definition of ''third-party registration.'' First, the Commission is proposing to remove the specific references to ''level one or level two'' reference data, and the accompanying specifier ''as applicable.'' This amendment would reflect the Commission's proposal to remove the definitions of ''level one reference data'' and ''level two reference data.'' [151]

Second, the Commission is proposing to add references to ''individuals,'' to reflect that swap counterparties may be individuals who need to obtain LEIs. As amended, ''third-party registration'' would mean submission of reference data for a legal entity or individual that is or may become a swap counterparty, made by an entity or organization other than the legal entity or individual identified by the submitted reference data. Examples of third-party registration include, without limitation, submission by an SD or MSP of reference data for its swap counterparties, and submission by a national numbering agency, national registration agency, or data service provider of reference data concerning legal entities or individuals with respect to which the agency or service provider maintains information.

Finally, the Commission is proposing to add two definitions pertaining to LEIs to § 45.6(a). First, the Commission is proposing to add a definition of ''local operating unit.'' As proposed, ''local operating unit'' would mean an entity authorized under the standards of the Global Legal Entity Identifier System to issue legal entity identifiers. Second, the Commission is proposing to add a definition of ''reference data.'' As proposed, ''reference data'' would mean all identification and relationship information, as set forth in the standards of the Global Legal Entity Identifier System, of the legal entity or individual to which an LEI is assigned. The terms ''local operating unit'' and ''reference data'' are explained in a discussion of the proposed amendments to § 45.6(e) in section II.F.7 below.

3. § 45.6(b)—International Standard for the Legal Entity Identifier

The Commission is proposing several changes to § 45.6(b) regulations for the international standards for LEIs. The proposed amendments to § 45.6(b) would reflect changes that have taken place since the current LEI regulations in § 45.6 were adopted in 2012. As background, § 45.6(b) now states that the LEI used in all recordkeeping and all swap data reporting required by part 45, following designation of the legal entity identifier system as provided in § 45.6(c)(2), shall be issued under, and shall conform to, International Organization for Standardization (''ISO'') Standard 17442, Legal Entity Identifier (LEI), issued by the ISO.

The Commission is proposing to remove the phrase ''following designation of the [LEI] system as provided in [§ 45.6(c)(2)].'' The governance of the Global Legal Entity Identifier System designed by the FSB with the contribution of private sector participants is now fully in place: While at the beginning of the Global Legal Entity Identifier System, LEI issuers were operating under a temporary endorsement of the LEI ROC, all active LEI issuers have now been accredited.[152] The LEI ROC establishes policy standards, such as the definition of the eligibility to obtain an LEI and conditions for obtaining an LEI; the

[149] ''Global Legal Entity Identifier System'' and ''local operating unit'' would be updated versions of the current definition of ''legal identifier system.''

[150] Instead, as discussed below, the Commission is proposing to add a definition of ''reference data.'' The proposed amendment to ''self-registration'' would be consistent with the new definition.

[151] Instead, as discussed below, the Commission is proposing to add a definition of ''reference data.'' The proposed amendment to ''self-registration'' would be consistent with the new definition.

[152] Progress report by the LEI ROC, The Global LEI System and regulatory uses of the LEI, 2 (Apr. 30, 2018), *available at https://www.leiroc.org/publications/gls/roc_20180502-1.pdf.*

definition of reference data and any extension thereof, such as the addition of information on relationships between entities; the frequency of update for some or all the reference data; the nature of due diligence and other standards necessary for sufficient data quality; or high level principles governing data and information access.[153]

Therefore, in light of the above proposed amendments, § 45.6(b) would state that the LEI used in all recordkeeping and all swap data reporting required by part 45 shall be issued under, and shall conform to, ISO Standard 17442, Legal Entity Identifier (LEI), issued by the ISO.

4. § 45.6(b)—Technical Principles for the Legal Entity Identifier

The Commission is proposing to remove this redundantly-numbered § 45.6(b) for the technical principles for the LEI.[154] Regulations for LEI reference data are currently located in § 45.6(e), which the Commission is proposing to move to § 45.6(c). The revisions to the current § 45.6(e) reference data regulations are discussed in section II.F.7 below.

Currently, this § 45.6(b) regulation enumerates the six technical principles for the legal entity identifier to be used in all recordkeeping and all swap data reporting. The principles in § 45.6(b) are: (i) Uniqueness; (ii) neutrality; (iii) reliability; (iv) open source; (v) extensibility; and (vi) persistence.

The Commission is proposing to remove the above technical principles from § 45.6(b). The Commission adopted § 45.6(b) before global technical principles for the LEI were developed. The Commission has participated in the Global Legal Entity Identifier System and the LEI ROC since their establishment in 2013, through which global technical principles have been developed and a functioning LEI system introduced. The Commission preliminarily believes that deleting this current § 45.6(b) to remove the technical principles for the legal entity identifier to be used in all recordkeeping and all swap data reporting is now warranted because the global technical principles that have been developed conform to the technical principles in § 45.6(b).

5. § 45.6(c)—Governance Principles for the Legal Entity Identifier

The Commission is proposing to remove the current § 45.6(c) regulations for the governance principles for the LEI.[155] Regulations for the use of the LEI are currently located in § 45.6(f), which the Commission is proposing to move to § 45.6(d), which would be correctly renumbered as § 45.6(d). The revisions to the current § 45.6(f) use of LEI regulations are discussed in section II.F.8 below.

Current § 45.6(c) enumerates the five governance principles for the legal entity identifier to be used in all recordkeeping and all swap data reporting. The governance principles are: International governance; reference data access; non-profit operation and funding; unbundling and non-restricted use; and commercial advantage prohibition.

The Commission is proposing to remove the above governance principles from § 45.6(c). The Commission adopted § 45.6(c) before global governance principles for the LEI were developed. The Commission has participated in the Global Legal Entity Identifier System and the LEI ROC since their establishment in 2013, through which global governance principles have been developed and a functioning LEI system introduced. The Commission preliminarily believes that deleting current § 45.6(c) to remove the governance principles for the legal entity identifier to be used in all recordkeeping and all swap data reporting is now warranted because the global governance principles that have been developed conform to the governance principles in § 45.6(c).

6. § 45.6(e)—Designation of the Legal Entity Identifier System

The Commission is proposing to remove the § 45.6(e) regulations for the designation of the legal entity identifier system. Current § 45.6(e) enumerates the procedures for determining whether a legal entity identifier system meets the Commission's requirements and the procedures for designating the legal entity identifier system as the provider of legal entity identifiers to be used in all recordkeeping and all swap data reporting.

The Commission adopted § 45.6(e) before a global legal entity identifier system was developed. The Commission has participated in the Global Legal Entity Identifier System and the LEI ROC since their establishment in 2013, through which a functioning LEI system has been introduced, overseeing the issuance of LEIs by local operating units. The Commission preliminarily believes that deleting this current § 45.6(e) to remove the procedures for determining whether a legal entity identifier system meets the Commission's requirements and the procedures for designating the legal entity identifier system as the provider of legal entity identifiers to be used in all recordkeeping and all swap data reporting is now warranted because such determination and designation procedures are no longer needed due to the establishment of Global Legal Entity Identifier System.

7. § 45.6(e)—Reference Data Reporting

The Commission is proposing changes to the § 45.6(e) regulations for LEI reference data reporting.[156] First, the Commission is proposing to move the requirements for reporting LEI reference data in § 45.6(e) to correctly-renumbered § 45.5(c).

Second, the Commission is proposing amendments to the requirements for reporting LEI reference data in current § 45.6(e), proposed to be moved to § 45.6(c). Current § 45.6(e)(1) requires level one reference data for each counterparty to be reported via self-registration, third-party registration, or both, and details the procedures for doing so, including the requirement to update level one reference data in the event of a change or discovery of the need for a correction. Current § 45.6(e)(2) contains the requirement, once the Commission has determined the location of the level two reference database, for level two reference data for each counterparty to be reported via self-registration, third-party registration, or both, and the procedures for doing so, including the requirement to update level two reference data in the event of a change or discovery of the need for a correction.

The Commission is proposing to remove the distinction between level one and level two reference data now found in § 45.6(e). Instead, proposed new § 45.6(c) would require that all reference data for each SEF, DCM, DCO, SDR, entity reporting pursuant to § 45.9, and counterparty to any swap be reported via self-registration, third-party registration, or both, to a local operating unit in accordance with the standards set by the Global Legal Entity Identifier System. Proposed new § 45.6(c) would retain the requirement in current § 45.6(e) to update the reference data in the event of a change or discovery of the need for a correction.

The Commission adopted § 45.6(e) before a global legal entity identifier system was developed. The Commission

[153] *Id.*

[154] This § 45.6(b) was numbered in error, as there is already a § 45.6(b), discussed in section II.F.3 above.

[155] Current § 45.6(c) was also numbered in error because of the duplicate § 45.6(b) sections.

[156] This § 45.6(e) was numbered in error, as there is already a § 45.6(e) directly preceding it.

has participated in the Global Legal Entity Identifier System and the LEI ROC since their establishment in 2013, through which a functioning LEI system has been introduced that sets, and updates as needed, the standards governing the identification and relationship reference data required to be provided in order to obtain an LEI. The Commission preliminarily believes that removing § 45.6(e) to remove the distinction between level one and level two reference data, and proposing a new § 45.6(c) to require that all reference data is reported to a local operating unit in accordance with the standards set by the Global Legal Entity Identifier System is warranted because the establishment of Global Legal Entity Identifier System removes the role of individual authorities in determining the standards governing LEI reference data.

While current § 45.6(e) requires that reference data for only the counterparties to a swap be reported, the extension of the requirement to be identified in all recordkeeping and swap data reporting by a single LEI to all SEFs, DCMs, DCOs, entities reporting pursuant to § 45.9, and SDRs described in section II.F.1 above also necessarily requires that all SEFs, DCMs, DCOs, entities reporting pursuant to § 45.9, and SDRs report their LEI reference data.

Therefore, in light of the above proposed amendments, § 45.6(c) would require that LEI reference data regarding each SEF, DCM, DCO, SDR, entity reporting pursuant to § 45.9, and counterparty to any swap shall be reported, by means of self-registration, third-party registration, or both, to a local operating unit in accordance with the standards set by the Global Legal Entity Identifier System. All subsequent changes and corrections to reference data previously reported would be reported, by means of self-registration, third-party registration, or both, to a local operating unit ASATP following occurrence of any such change or discovery of the need for a correction.

8. § 45.6(f)—Use of the Legal Entity Identifier System by Registered Entities and Swap Counterparties

The Commission is proposing changes to the § 45.6(f) regulations for the use of LEIs by registered entities and swap counterparties. Current § 45.6(f)(1) requires that when a legal entity identifier system has been designated by the Commission pursuant to § 45.6(e), each registered entity and swap counterparty shall use the LEI provided by that system in all recordkeeping and swap data reporting pursuant to part 45. Current § 45.6(f)(2) requires that before a legal entity identifier system has been designated by the Commission, each registered entity and swap counterparty shall use a substitute counterparty identifier created and assigned by an SDR in all recordkeeping and swap data reporting pursuant to part 45.[157]

Current § 45.6(f)(3) requires that for swaps reported pursuant to part 45 prior to Commission designation of a legal entity identifier system, after such designation each SDR shall map the LEIs for the counterparties to the substitute counterparty identifiers in the record for each such swap. Current § 45.6(f)(4) requires that prior to October 15, 2012, if an LEI has been designated by the Commission as provided in § 45.6, but a reporting counterparty's automated systems are not yet prepared to include LEIs in recordkeeping and swap data reporting pursuant to part 45, the counterparty shall be excused from complying with § 45.6(f)(1), and shall instead comply with § 45.6(f)(2), until its automated systems are prepared with respect to LEIs, at which time it must commence compliance with § 45.6(f)(1).[158]

The Commission is proposing to retitle the section ''Use of the legal entity identifier,'' because, as discussed below, the LEI will no longer be used only by registered entities and swap counterparties. The Commission is also proposing to move the requirements for the use of LEIs from current § 45.6(f) to correctly renumbered § 45.6(d),[159] as a result, the Commission's proposed amendments to the requirements for the use of LEIs in current § 45.6(f) discussed below will be captured in new § 45.6(d).

The Commission is proposing to remove the sections of § 45.6(f) that are no longer operative, either because the Commission has designated a legal entity identifier system, or the provisions have expired. For these reasons, the Commission is proposing to remove § 45.6(f)(2) and (4). As a result, the substantive requirements of § 45.6(f)(2) and (4) will not be moved to § 45.6(d).

While the provisions of § 45.6(f)(3) relating to substitute counterparty identifiers are no longer applicable for new swaps, the substantive requirements in § 45.6(f)(3), which are still applicable for swaps previously reported pursuant to part 45 using substitute counterparty identifiers assigned by an SDR prior to Commission designation of a legal entity identifier system, will be moved to new § 45.6(d)(4). Since this provision is applicable only to old swaps and does not alter existing SDRs obligations, the Commission considers this change to be non-substantive.

The Commission is also proposing the following substantive changes to the regulations requiring the use of LEIs. First, the Commission is proposing revisions to the § 45.6(f)(1) regulations for the use of LEIs. The revised regulations will be moved to § 45.6(d)(1), but discussed below.

The Commission proposes to delete the introductory clause ''[w]hen a legal entity identifier system has been designated by the Commission pursuant to paragraph (e) of this section'' in § 45.6(f)(1) because it is no longer relevant due to the establishment of the Global Legal Entity Identifier System and the LEI ROC in 2013. In addition, while § 45.6(f)(1) currently requires ''each registered entity and swap counterparty'' to use LEIs in all recordkeeping and swap data reporting pursuant to part 45, the Commission proposes to replace ''each registered entity and swap counterparty'' with ''[e]ach [SEF], [DCM], [DCO], [SDR], entity reporting pursuant to § 45.9, and swap counterparty'' in order to, as described in section II.F.1 above, ensure consistency with the CDE Technical Guidance, allow for standardization in the identification in recordkeeping and swap data reporting, and encourage global swap data aggregation. The Commission also proposes to add ''to identify itself and swap counterparties'' immediately after ''use [LEIs]'' in this section to clarify the intended use of LEIs. Finally, the Commission proposes to add a new sentence in this section to clarify that if a swap counterparty is not eligible to receive an LEI, such counterparty should be identified in with an alternate identifier pursuant to § 45.13(a). Because some counterparties, including many individuals, are currently ineligible to receive an LEI based on the standards of the Global Legal Entity Identifier System, the Commission believes that this sentence will provide clarity as to how LEI-ineligible counterparties should be identified.

Second, the Commission is proposing new § 45.6(d)(2) to require each SD, MSP, SEF, DCM, DCO, and SDR to maintain and renew its LEI in accordance with the standards set by the Global Legal Entity Identifier System.

[157] The requirements for the substitute identifier were set forth in § 45.6(f)(2)(i) through (iv). As the Global Legal Entity Identifier System has been introduced that oversees the issuance of LEIs by local operating units, these requirements are no longer applicable, the Commission will limit the detail of their discussion in this release.

[158] The regulation specified that this paragraph would have no effect on or after October 15, 2012. 17 CFR 45.6(f)(4).

[159] As previously noted, current § 45.6(c) was numbered in error because of the duplicate § 45.6(b) sections.

Current § 45.6(e) requires that reference data be updated in the event of a change or discovery of the need for a correction, which will continue to be required under new § 45.6(c).

Pursuant to the Global Legal Entity Identifier System, established in 2013, a person or entity is issued an LEI after: (1) Providing its identification and relationship reference data to a local operating unit and (2) paying a fee, currently as low as approximately $65, to the local operating unit to validate the provided reference data. After initial issuance, an LEI holder is asked to certify the continuing accuracy of, or provide updates to, its reference data annually, and pay a fee, currently as low as approximately $50, to the local operating unit. LEIs that are not renewed annually are marked as lapsed. Section 45.6 does not currently require annual LEI renewal because part 45 was drafted and implemented prior to the establishment of the Global Legal Entity Identifier System. Since the implementation of § 45.6, the Commission has received consistent feedback from certain market participants and industry groups that the Commission should require at least some LEI holders to annually renew their LEIs.

The Commission is aware that some LEI holders have not complied with the continuing requirement to update reference data as currently required by § 45.6(e), and imposing an annual renewal requirement may increase the accuracy of their reference data. The Commission also recognizes that other LEI holders are in compliance with the continuing requirement to update reference data, and imposing an annual renewal requirement may impose costs on those LEI holders without necessarily increasing the accuracy of their reference data. The Commission has participated in the Global Legal Entity Identifier System since its inception, and values the functionality of the LEI reference data collected, including the introduction of level two reference data.

The Commission considers the activities of SDs, MSPs, SEFs, DCMs, DCOs, and SDRs to have the most systemic impact affecting the Commission's ability to fulfill its regulatory mandates and, in light of the introduction of LEI level two reference data, the Commission preliminarily believes that requiring each SD, MSP, SEF, DCM, DCO, and SDR to maintain and renew its LEI in accordance with the standards set by the Global Legal Entity Identifier System in new § 45.6(d)(2) strikes the appropriate balance between the Commission's interest in accurate LEI reference data and cost to LEI holders.

Third, the Commission proposes a new § 45.6(d)(3) that would obligate each DCO and each financial entity reporting counterparty executing a swap with a counterparty that does not have an LEI but is eligible for one to cause, prior to reporting any required swap creation data for such swap, an LEI to be assigned to the counterparty, including if necessary, through third-party registration.

The Commission is aware that some counterparties currently have not obtained an LEI. While proposed amendments to § 45.6 discussed above clarify that a counterparty required to be identified with an LEI in swap data reporting also has an associated affirmative requirement to obtain an LEI, the Commission anticipates that a small percentage of counterparties nonetheless will not have obtained an LEI before executing a swap. Swap data that does not identify eligible counterparties with an LEI hinders the Commission's fulfillment of its regulatory mandates, including monitoring systemic risk, market monitoring, and market abuse prevention. The Commission preliminarily believes that proposing new § 45.6(d)(3) to require each DCO and each financial entity reporting counterparty executing a swap with a counterparty that does not have an LEI to cause an LEI to be assigned to the non-reporting counterparty will further the objective of identifying each counterparty to a swap with an LEI.

New § 45.6(d)(3) would not prescribe the initial manner in which a DCO or financial entity reporting counterparty causes an LEI to be assigned to the non-reporting counterparty, though if initial efforts are unsuccessful, new § 45.6(d)(3) requires the DCO or financial entity reporting counterparty to obtain an LEI for the non-reporting counterparty. The Commission preliminarily believes that having a DCO or financial entity reporting counterparty serving as a backstop under new § 45.6(d)(3) to ensure the identification of the non-reporting counterparty with an LEI is appropriate because: (i) Each DCO and financial entity reporting counterparty already has obtained, via its ''know your customer'' and anti-money laundering compliance processes, all identification and relationship reference data of the non-reporting counterparty required by a local operating unit to issue an LEI for the non-reporting counterparty; (ii) multiple local operating units offer expedited issuance of LEI in sufficient time to allow reporting counterparties to meet their new extended deadline in § 45.3(a) through (b) for reporting required swap creation data; and (iii) the Commission anticipates that third-party registration in these instances will be infrequent, as the Commission expects most non-reporting counterparties to be mindful of their direct obligation to obtain their own LEIs pursuant to § 45.6.[160]

Therefore, in light of the above proposed amendments, § 45.6(d)(1) would require that each SEF, DCM, DCO, SDR, entity reporting pursuant to § 45.9, and swap counterparty use an LEI to identify itself and swap counterparties in all recordkeeping and all swap data reporting pursuant to part 45. If a swap counterparty is not eligible to receive an LEI as determined by the Global Legal Entity Identifier System, such counterparty would be identified in all recordkeeping and all swap data reporting pursuant to part 45 with an alternate identifier as prescribed by the Commission pursuant to § 45.13(a).

Proposed § 45.6(d)(2) would provide that each SD, MSP, SEF, DCM, DCO, and SDR shall maintain and renew its LEI in accordance with the standards set by the Global Legal Entity Identifier System. Proposed § 45.6(d)(3) would require that each DCO and each financial entity reporting counterparty executing a swap with a counterparty that is eligible to receive an LEI, but has not been assigned an LEI, prior to reporting any required swap creation data for such swap, cause an LEI to be assigned to the counterparty, including if necessary, through third-party registration.

Proposed § 45.6(d)(4) would require that for swaps previously reported pursuant to part 45 using substitute counterparty identifiers assigned by an SDR prior to Commission designation of an LEI system, each SDR map the LEIs for the counterparties to the substitute counterparty identifiers in the record for each such swap.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 45.6. The Commission also invites specific comment on the following:

(8) Should the Commission expand requiring LEIs to be renewed annually beyond SDs, MSPs, SEFs, DCMs, DCOs, and SDRs? Please explain why or why

[160] ESMA also issued temporary relief to investment firms transacting with a client without an LEI on the condition that they ''[obtain] the necessary documentation from this client to apply for an LEI code on his behalf,'' *available at https://www.esma.europa.eu/press-news/esma-news/esma-issues-statement-lei-implementation-under-mifid-ii.*

not, including specification of any material costs or benefits.

(9) Are there other ways to ensure that an LEI is obtained and reported for a counterparty without an LEI, but is eligible for an LEI, other than each DCO and each financial entity reporting counterparty potentially being required to obtain an LEI on behalf of the counterparty through third-party registration?

G. § 45.8 [161]—Determination of Which Counterparty Shall Report

The Commission is proposing to amend the introductory text to the § 45.8 reporting counterparty determination regulations. The current introductory text states that determination of which counterparty is the reporting counterparty for all swaps, except clearing swaps, shall be made as provided in § 45.8(a) through (h), and that the determination of which counterparty is the reporting counterparty for all clearing swaps shall be made as provided in § 45.8(i).

The Commission believes that much of the introductory text is superfluous, given that the scope of what § 45.8 covers is clear from the operative provisions of § 45.8. The Commission is proposing to amend the introductory text to § 45.8 to state that the determination of which counterparty is the reporting counterparty for each swap shall be made as provided in § 45.8.

H. § 45.10 [162]—Reporting to a Single SDR

The Commission is proposing to revise the § 45.10 regulations for reporting swap data to a single SDR. As part of these revisions, the Commission is proposing to amend and remove current regulations, and add new regulations to § 45.10. In particular, new § 45.10(d) would permit reporting counterparties to change the SDR to which they report swap data and swap transaction and pricing data.

1. Introductory Text

The Commission is proposing to amend the introductory text to the § 45.10 regulations for reporting to a single SDR. The current introductory text states that all swap data for a given swap, which shall include all swap data required to be reported pursuant to parts 43 and 45, must be reported to a single SDR, which shall be the SDR to which the first report of required swap creation data is made pursuant to part 45.

First, the Commission is proposing to remove the reference to parts 43 and 45. In its place, the Commission is proposing to clarify in the beginning of the introductory text that all ''swap transaction and pricing data and swap data'' (both terms that the Commission proposes to newly define and add to § 45.1(a)) [163] for a given swap must be reported. As newly defined, ''swap transaction and pricing data'' and ''swap data'' would expressly refer, respectively, to data subject to part 43 and part 45, making the current § 45.10 introductory text's express reference to the two parts redundant.

Second, the Commission is proposing to add a qualifier to the end of the introductory text. The qualifier would specify that all swap data and swap transaction and pricing data for a swap must be reported to a single SDR ''unless the reporting counterparty changes the [SDR] to which such data is reported'' pursuant to the new regulations proposed in § 45.10(d). New § 45.10(d) would permit reporting counterparties to change the SDR to which they report swap data and swap transaction and pricing data.[164]

Finally, the Commission is proposing ministerial language amendments in the introductory text to improve readability.

Therefore, the introductory text to § 45.10 would state that all swap transaction and pricing data and swap data for a given swap shall be reported to a single SDR, which shall be the SDR to which the first report of such data is made, unless the reporting counterparty changes the SDR to which such data is reported pursuant to § 45.10(d).

2. § 45.10(a)—Swaps Executed on or Pursuant to the Rules of a SEF or DCM

The Commission is proposing to amend the § 45.10(a) regulations for reporting swaps executed on or pursuant to the rules of a SEF or DCM to a single SDR. Current § 45.10(a) requires that to ensure that all swap data, including all swap data required to be reported pursuant to parts 43 and 45, for a swap executed on or pursuant to the rules of a SEF or DCM is reported to a single SDR: (i) The SEF or DCM that reports required swap creation data as required by § 45.3 shall report all such data to a single SDR, and ASATP after execution shall transmit to both counterparties to the swap, and to any DCO, the identity of the SDR and the USI for the swap; and (ii) thereafter, all required swap creation data and all required swap continuation data reported for the swap reported by any registered entity or counterparty shall be reported to that same SDR (or to its successor in the event that it ceases to operate, as provided in part 49).

First, the Commission is proposing to remove the phrase ''(or to its successor in the event that it ceases to operate, as provided in part 49)'' in § 45.10(a)(2). This phrase would no longer be necessary with the proposed regulations in § 49.10(d) that would permit reporting counterparties to change SDRs.[165]

Second, the Commission is proposing to update all references to swap data throughout § 45.10(a). The Commission is proposing to replace all references to ''swap data'' with all ''swap transaction and pricing data and swap data.''

Third, the Commission is proposing to remove § 45.10(a)(1)(ii). As discussed above, § 45.10(a)(1)(ii) requires SEFs and DCMs to transmit the USI to both counterparties to the swap, and to any DCO. This requirement is already located in § 45.5(a)(2). Since the Commission is proposing to remove § 45.10(a)(1)(ii), the Commission is also proposing to combine the text of § 45.10(a) and (a)(i) into a single provision in § 45.10(a).

Finally, the Commission is proposing to add the qualifier to the end of § 45.10(a)(2) that all swap data and swap transaction and pricing data for a swap must be reported to a single SDR ''unless the reporting counterparty changes the [SDR] to which such data is reported'' pursuant to the new regulations proposed in § 45.10(d). New § 45.10(d) would permit reporting counterparties to change the SDR to which they report swap data and swap transaction and pricing data.[166]

Therefore, § 45.10(a) would require that to ensure that all swap transaction and pricing data and swap data for a swap executed on or pursuant to the rules of a SEF or DCM is reported to a single SDR: (i) The SEF or DCM shall report all swap transaction and pricing data and required swap creation data for a swap to a single SDR, and ASATP after execution of the swap shall transmit to both counterparties to the swap, and to any DCO, the identity of the SDR to which such data is reported; and (ii) thereafter, all swap transaction and pricing data, required swap creation data, and required swap continuation data for the swap shall be reported to that same SDR, unless the reporting counterparty changes the SDR to which

[161] The Commission is proposing minor, non-substantive amendments to § 45.7.

[162] The Commission is proposing minor, non-substantive amendments to § 45.9.

[163] The Commission's proposed addition of defined terms for ''swap data'' and ''swap transaction and pricing data'' to § 45.1(a) is discussed in section II.A.1 above.

[164] New § 45.10(d) is discussed in section II.H.5 below.

[165] *Id.*

[166] *Id.*

such data is reported pursuant to § 45.10(d).

3. § 45.10(b)—Off-Facility Swaps With an SD or MSP Reporting Counterparty

The Commission is proposing to amend the § 45.10(b) regulations for reporting swaps executed off-facility with an SD/MSP reporting counterparty to a single SDR. Section 45.10(b)(1) requires that to ensure that all swap data, including all swap data required to be reported pursuant to parts 43 and 45, for off-facility swaps with an SD or MSP reporting counterparty is reported to a single SDR: (i) If the reporting counterparty reports PET data to an SDR as required by § 45.3, the reporting counterparty shall report PET data to a single SDR and ASATP after execution, but no later than as required pursuant to § 45.3, shall transmit to the other counterparty to the swap both the identity of the SDR to which PET data is reported by the reporting counterparty, and the USI for the swap created pursuant to § 45.5; and (ii) if the swap will be cleared, the reporting counterparty shall transmit to the DCO at the time the swap is submitted for clearing both the identity of the SDR to which PET data is reported by the reporting counterparty, and the USI for the swap created pursuant to § 45.5.

Thereafter, § 45.10(b)(2) requires that all required swap creation data and all required swap continuation data reported for the swap, by any registered entity or counterparty, shall be reported to the SDR to which swap data has been reported pursuant to § 45.10(b)(1) or (2) (or to its successor in the event that it ceases to operate, as provided in part 49).

First, the Commission is proposing to combine the requirements for SD/MSP reporting counterparties in § 45.10(b) for off-facility swaps with the requirements for non-SD/MSP reporting counterparties in § 45.10(c) for off-facility swaps. Revised § 45.10(b) would be retitled ''Off-facility swaps that are not clearing swaps.'' The Commission believes that the requirements for SD/MSP reporting counterparties and non-SD/MSP reporting counterparties could be combined to simplify the regulations in § 45.10. The requirements of current § 45.10(c) are discussed in section II.H.4 below.

Second, the Commission is proposing to remove the phrase ''(or to its successor in the event that it ceases to operate, as provided in part 49)'' from § 45.10(b)(2). This phrase would no longer be necessary with the proposed regulations in § 49.10(d) that would permit reporting counterparties to change SDRs.

Third, the Commission is proposing to update all references to swap data throughout § 45.10(b). The Commission is proposing to replace all references to ''swap data'' with all ''swap transaction and pricing data and swap data.''

Fourth, the Commission is proposing to remove § 45.10(b)(1). Current § 45.10(b) contains the condition that § 45.10(b)(1)(i) through (iii) apply ''[i]f the reporting counterparty reports [PET data] to a [SDR] as required by § 45.3.'' This condition is unnecessary, as all reporting counterparties must report required swap creation data to an SDR pursuant to § 45.3 for off-facility swaps. As a result, the Commission is proposing to remove § 45.10(b)(1) and combine and move the regulations in § 45.10(b)(1)(i) through (iii) into § 45.10(b)(1).

Fifth, the Commission is proposing to remove the requirement in current § 45.10(b)(1)(ii) for the reporting counterparty to transmit the USI to the non-reporting counterparty to the swap. This requirement is already located in § 45.5(b)(2) and (c)(2), depending on the type of counterparty.

Finally, the Commission is proposing to add the qualifier to the end of § 45.10(b)(2) that all swap data and swap transaction and pricing data for a swap must be reported to a single SDR ''unless the reporting counterparty changes the [SDR] to which such data is reported'' pursuant to the new regulations proposed in § 45.10(d). New § 45.10(d) would permit reporting counterparties to change the SDR to which they report swap data and swap transaction and pricing data.[167]

Therefore, proposed § 45.10(b)(1) would require that to ensure that all swap transaction and pricing data and swap data for an off-facility swap that is not a clearing swap is reported to a single SDR: (i) The reporting counterparty shall report all swap transaction and pricing data and required swap creation data to an SDR, and ASATP after execution, shall transmit to the other counterparty to the swap, and to any DCO that will clear the swap, the identity of the SDR to which such data is reported. Thereafter, proposed § 45.10(b)(2) would require that all swap transaction and pricing data, required swap creation data, and required swap continuation data for the swap shall be reported to the same SDR, unless the reporting counterparty changes the SDR to which such data is reported pursuant to § 45.10(d).

[167] New § 45.10(d) is discussed in section II.H.5 below.

4. § 45.10(c)—Off-Facility Swaps With a Non-SD/MSP Reporting Counterparty

As discussed in section II.H.3 above, the Commission is proposing to move the § 45.10(c) requirements for non-SD/MSP reporting counterparties to report off-facility swaps to a single SDR to revised § 45.10(b). The requirements in current § 45.10(b) and (c) would be combined to create revised § 45.10(b), which would contain the requirements for reporting counterparties to report off-facility swaps that are not clearing swaps. As a result, the Commission is proposing to move the requirements in current § 45.10(d) to § 45.10(c). The requirements of current § 45.10(d) are discussed in the following section II.H.5.

Current § 45.10(c)(1) requires that to ensure that all swap data, including all swap data required to be reported pursuant to parts 43 and 45, for such swaps is reported to a single SDR: (i) If the reporting counterparty reports PET data to an SDR as required by § 45.3, the reporting counterparty reports PET data to a single SDR, and ASATP after execution, but no later than as required pursuant to § 45.3, the reporting counterparty shall transmit to the other counterparty to the swap the identity of the SDR to which PET data was reported by the reporting counterparty; and (ii) if the swap will be cleared, the reporting counterparty shall transmit to the DCO at the time the swap is submitted for clearing the identity of the SDR to which PET data was reported by the reporting counterparty.

Current § 45.10(c)(2) requires that the SDR to which the swap is reported as provided in § 45.10(c) shall transmit the USI created pursuant to § 45.5 to both counterparties and to any DCO, ASATP after creation of the USI. Thereafter, § 45.10(c)(3) requires that all required swap creation data and all required swap continuation data reported for the swap, by any registered entity or counterparty, shall be reported to the SDR to which swap data has been reported pursuant to § 45.10(c)(1) (or to its successor in the event that it ceases to operate, as provided in part 49 of the Commission's regulations).

As discussed above, the Commission preliminarily believes that the requirements for SD/MSP reporting counterparties and non-SD/MSP reporting counterparties are nearly identical. Therefore, the Commission is proposing to move the requirements for non-SD/MSP reporting counterparties to revised § 45.10(b). The discussion of § 45.10(b), including the Commission's proposed revisions to the new combined

section, are discussed in section II.H.3 above.

5. § 45.10(d)—Clearing Swaps

As discussed above, the Commission is proposing to move the requirements for reporting clearing swaps to a single SDR from § 45.10(d) to § 45.10(c). As proposed, newly re-designated § 45.10(c) also would amend the current requirements for reporting clearing swaps to a single SDR now located in § 45.10(d). The Commission is proposing to replace current § 45.10(d) with new requirements for reporting counterparties to change SDRs. Below is a discussion of the proposed amendments to the regulatory requirements for reporting clearing swaps to a single SDR in newly re-designated § 45.10(c) (currently § 45.10(d)), followed by a discussion of the new regulations permitting reporting counterparties to change SDRs.

a. Amendments to Current § 45.10(d) (Re-Designated as § 45.10(c))

Current § 45.10(d)(1) requires that to ensure that all swap data for a given clearing swap, and for clearing swaps that replace a particular original swap or that are created upon execution of the same transaction and that do not replace an original swap, is reported to a single SDR: The DCO that is a counterparty to such clearing swap shall report all required swap creation data for that clearing swap to a single SDR, and ASATP after acceptance of an original swap by a DCO for clearing or execution of a clearing swap that does not replace an original swap, the DCO shall transmit to the counterparty to each clearing swap the LEI of the SDR to which the DCO reported the required swap creation data for that clearing swap.

Thereafter, § 45.10(d)(2) requires that all required swap creation data and all required swap continuation data reported for that clearing swap shall be reported by the DCO to the SDR to which swap data has been reported pursuant to § 45.10(d)(1) (or to its successor in the event that it ceases to operate, as provided in part 49). Current § 45.10(d)(3) requires that for clearing swaps that replace a particular original swap, and for equal and opposite clearing swaps that are created upon execution of the same transaction and that do not replace an original swap, the DCO shall report all required swap creation data and all required swap continuation data for such clearing swaps to a single SDR.

As proposed, newly re-designated § 45.10(c) would include several amendments to the requirements now found in § 45.10(d). First, the Commission is proposing to remove the phrase ''(or to its successor in the event that it ceases to operate, as provided in part 49)'' as now used in § 45.10(d)(2) from re-designated § 49.10(c)(2). This phrase would no longer be necessary with the proposed regulations in new § 49.10(d) that would permit reporting counterparties to change SDRs.

Second, the Commission is proposing in re-designated § 45.10(c) to update all references to swap data now found throughout § 45.10(d). The Commission is proposing to replace all references to ''swap data'' with all ''swap transaction and pricing data and swap data.''

Third, the Commission is proposing in re-designated § 45.10(c)(2) to add the following qualifier to the requirement now found in § 45.10(d)(2) for reporting all swap data and swap transaction and pricing data for a swap to a single SDR: ''unless the reporting counterparty changes the [SDR] to which such data is reported'' pursuant to the new regulations proposed in § 45.10(d). Finally, the Commission is also proposing numerous language edits to improve readability, and to update certain cross-references.

Therefore, § 45.10(c)(1) would require that to ensure that all swap transaction and pricing data and swap data for a given clearing swap, including clearing swaps that replace a particular original swap or that are created upon execution of the same transaction and that do not replace an original swap, is reported to a single SDR: (i) The DCO that is a counterparty to such clearing swap report all swap transaction and pricing data and required swap creation data for that clearing swap to a single SDR; and (ii) ASATP after acceptance of an original swap for clearing, or execution of a clearing swap that does not replace an original swap, the DCO transmit to the counterparty to each clearing swap the identity of the SDR to which such data is reported.

Thereafter, § 45.10(c)(2) would require that all swap transaction and pricing data, required swap creation data and required swap continuation data for that clearing swap shall be reported by the DCO to the same SDR to which swap data has been reported pursuant to § 45.10(c)(1), unless the reporting counterparty changes the SDR to which such data is reported pursuant to § 45.10(d).

Proposed § 45.10(c)(3) would require that for clearing swaps that replace a particular original swap, and for equal and opposite clearing swaps that are created upon execution of the same transaction and that do not replace an original swap, the DCO report all swap transaction and pricing data, required swap creation data, and required swap continuation data for such clearing swaps to a single SDR.

b. New Regulations for Changing SDRs

The Commission is proposing new regulations in § 45.10(d) to permit reporting counterparties to change the SDR to which they report swap data and swap transaction and pricing data. Current § 45.10 provides that all swaps must be reported to a ''single [SDR].'' [168]

As background, when the Commission adopted § 45.10 in 2012, it believed that regulators' ability to see necessary information concerning swaps could be impeded if data concerning a swap was spread over multiple SDRs.[169] However, since then: (i) The Commission has come to recognize that swap data from different SDRs can be aggregated and made available for Commission analysis and (ii) the Commission has received requests to permit reporting counterparties to change SDRs.[170]

However, the ability to change SDRs cannot frustrate the Commission's ability to use swap data due to duplicative swap reports housed at multiple SDRs. Therefore, the Commission is proposing to permit reporting to change SDRs, subject to certain procedures described below to ensure swaps are properly transferred between SDRs.

The Commission is proposing new regulations in § 45.10(d), titled ''Change of [SDR] for swap transaction and pricing data and swap data reporting.'' The introductory text to § 45.10(d) would state that a reporting counterparty may change the SDR to which swap transaction and pricing data and swap data is reported as set forth in this § 45.10(d).

Proposed § 45.10(d)(1) would require that at least five business days prior to changing the SDR to which the reporting counterparty reports swap transaction and pricing data and swap data for a swap, the reporting counterparty shall provide notice of such change to the other counterparty to the swap, the SDR to which swap transaction and pricing data and swap data is currently reported, and the SDR to which swap transaction and pricing data and swap data will be reported going forward. Such notification would include the UTI of the swap and the date on which the reporting counterparty will begin reporting such

[168] 17 CFR 45.10(a) through (d).

[169] Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136, 2168.

[170] *See, e.g.,* Joint SDR Letter at 15.

swap transaction and pricing data and swap data to a different SDR.

Proposed § 45.10(d)(2) would require that after providing notification, the reporting counterparty shall: (i) Report the change of SDR to the SDR to which the reporting counterparty is currently reporting swap transaction and pricing data and swap data as a life cycle event for such swap pursuant to § 45.4; (ii) on the same day that the reporting counterparty reports required swap continuation data as required by § 45.10(d)(2)(i), the reporting counterparty shall also report the change of SDR to the SDR to which swap transaction and pricing data and swap data will be reported going forward, as a life cycle event for such swap pursuant to § 45.4, and the report shall identify the swap using the same UTI used to identify the swap at the previous SDR; (iii) thereafter, all swap transaction and pricing data, required swap creation data, and required swap continuation data for the swap shall be reported to the same SDR, unless the reporting counterparty for the swap makes another change to the SDR to which such data is reported pursuant to § 45.10(d).

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 45.10. The Commission also invites specific comment on the following:

(10) Would the Commission's proposal to permit reporting counterparties to change SDRs raise any operational issues for reporting counterparties, SDRs, or non-reporting counterparties?

(11) Should the Commission adopt additional requirements to ensure that a reporting counterparty's choice to change SDRs does not result in the loss of any data or information?

I. § 45.11—Data Reporting for Swaps in a Swap Asset Class Not Accepted by Any SDR

The Commission is proposing non-substantive amendments to the § 45.11 regulations for reporting swaps in an asset class not accepted by any SDR. Current § 45.11(a) requires that should there be a swap asset class for which no SDR registered with the Commission currently accepts swap data, each registered entity or counterparty required by part 45 to report any required swap creation data or required swap continuation data with respect to a swap in that asset class must report that same data to the Commission.

For instance, the Commission is proposing to remove the phrase ''registered with the Commission'' following the term SDR. The Commission believes this phrase could create confusion, as the three SDRs are provisionally registered with the Commission pursuant to § 49.4(b). The Commission also believes this phrase is unnecessary, as provisionally registered SDRs and fully registered SDRs are subject to the same requirements in the CEA and the Commission's regulations. The Commission is also proposing to replace ''each registered entity or counterparty'' with SEFs, DCMs, and DCOs, and the term ''reporting counterparty.'' The list of entities would be more precise.

Therefore, proposed § 45.11(a) would require that should there be a swap asset class for which no SDR registered currently accepts swap data, each SEF, DCM, DCO, or reporting counterparty required by part 45 to report any required swap creation data or required swap continuation data with respect to a swap in that asset class shall report that same data to the Commission.

Current § 45.11(c) and (d) contain a delegation of authority to the Chief Information Officer of the Commission concerning the requirements in § 45.11(a) and (b). The Commission is proposing to move this delegation to a new section, § 45.15, specifically for delegations of authority. This delegation of authority, including the Commission's proposed amendments to it, is discussed in section II.L below.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 45.11.

J. § 45.12—Voluntary Supplemental Reporting

The Commission is proposing to remove the § 45.12 regulations for voluntary supplemental reporting from part 45. Current § 45.12 permits the submission of voluntary supplemental swap data reports by swap counterparties.[171] Voluntary supplemental swap data reports are defined as ''any report of swap data to a [SDR] that is not required to be made pursuant to [part 45] or any other part in this chapter.''[172]

As background, when the Commission adopted § 45.12 in 2012, it believed that voluntary supplemental reporting could have benefits for data accuracy and counterparty business processes, especially for counterparties that were not the reporting counterparty to a swap.[173] The Commission recognized that § 45.12 would lead to the submission of duplicative reports for the same swap.[174] In response, the Commission believed that requiring an indication that voluntary supplemental reports were voluntary would help prevent double-counting of the same swaps within SDRs.[175]

In practice, the Commission is concerned that these reports compromise data quality and provide no clear regulatory benefit. In analyzing reports that have been marked as ''voluntary reports,'' it is not immediately apparent to the Commission why reporting parties mark them as being voluntary. In some cases, it appears these reports can be related to products outside the Commission's jurisdiction. The Commission believes it should not accept duplicative or non-jurisdictional reports at the expense of the CFTC's technical and staffing resources with no clear regulatory benefit.

The Commission adopted § 45.12 in 2012 without the benefit of having swap data available to consider the practical implications of § 45.12. However, after years of use by Commission staff, the Commission now believes that § 45.12 has led to swap data reporting that inhibits the Commission's use of the swap data. Therefore, the Commission is proposing to eliminate the § 45.12 regulations for voluntary supplemental reporting.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 45.12.

K. § 45.13—Required Data Standards

1. § 45.13(a)—Data Maintained and Furnished to the Commission by SDRs

The Commission is proposing to revise the § 45.13(a) regulations for data maintained and furnished to the Commission by SDRs. As part of these revisions, the Commission is proposing to remove and replace § 45.13(a)'s current language, including by moving current § 45.13(b) to amended § 45.13(a)(3). Current § 45.13(a) requires that each SDR maintain all swap data

[171] 17 CFR 45.12(b) through (e). Current § 45.12(d) requires that voluntary supplemental reports contain an indication the report is voluntary, a USI, the identity of the SDR to which required swap creation data and required swap continuation data were reported, if different from the SDR to which the voluntary supplemental report was reported, the LEI of the counterparty making the voluntary supplemental report, and an indication the report is made pursuant to laws of another jurisdiction, if applicable.

[172] 17 CFR 45.12(a).

[173] Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136, 2169.

[174] *Id.*

[175] *Id.*

reported to it in a format acceptable to the Commission, and transmit all swap data requested by the Commission to the Commission in an electronic file in a format acceptable to the Commission.

The 2019 Part 49 NPRM proposed moving the requirements of § 45.13(a) to § 49.17(c).[176] Proposed amended § 49.17(c) would contain the requirements for SDRs to provide Commission access to swap data.[177] The Commission did not propose corresponding modifications to current § 45.13 in that release.[178] Therefore, the Commission is now proposing to amend § 45.13(a) by removing language that the 2019 Part 49 NPRM proposed for incorporation in § 49.17(c). The revisions to § 45.13(b), proposed to be moved to § 45.13(a)(3), are discussed in the following section.

Proposed § 45.13(a)(1) would require that in reporting required swap creation data and required swap continuation data to an SDR, each reporting counterparty, SEF, DCM, and DCO, shall report the swap data elements in appendix 1 in the form and manner provided in the technical specifications published by the Commission.

Proposed § 45.13(a)(2) would require that in reporting required swap creation data and required swap continuation data to an SDR, each reporting counterparty, SEF, DCM, and DCO making such report satisfy the swap data validation procedures of the SDR receiving the swap data. The Commission is proposing companion requirements for SDRs to validate swap data in § 49.10. The proposed validation requirements for SDRs in § 49.10 are discussed in section IV.C below. Proposed § 45.13(a)(2) would establish the regulatory requirement for reporting counterparties, SEFs, DCMs, and DCOs to satisfy the data validation procedures established by SDRs pursuant to § 49.10. The Commission is also proposing to specify the requirements for the validation messages in § 45.13(b). These requirements are discussed in the following discussion.

2. § 45.13(b)—Data Reported to SDRs

a. Amendments to Current § 45.13(b) (Re-Designated as § 45.13(a)(3))

The Commission is proposing to re-designate the regulations for data reported to SDRs currently located in § 45.13(b). Current § 45.13(b) requires that in reporting swap data to an SDR as required by part 45, each reporting entity or counterparty shall use the facilities, methods, or data standards provided or required by the SDR to which the entity or counterparty reports the data. Current § 45.13(b) further provides that an SDR may permit reporting entities and counterparties to use various facilities, methods, or data standards, provided that its requirements in this regard enable it to meet the requirements of § 45.13(a) with respect to maintenance and transmission of swap data.

The Commission is also proposing to amend the requirements of current § 45.13(b), as re-designated in new § 45.13(a)(3). First, the Commission is proposing to replace ''each reporting entity or counterparty'' with ''each reporting counterparty [SEF, DCM, and DCO].'' The Commission believes a list of entities would be more precise.

Second, the Commission is proposing to remove the second sentence in current § 45.13(b). The second sentence in § 45.13(b) pertains to the requirements of § 45.13(a), which the Commission has proposed to move to part 49. Therefore, the Commission is proposing to remove the outdated reference.

As a result, new § 45.13(a)(3) would require that in reporting swap data to an SDR as required by part 45, each reporting counterparty, SEF, DCM, and DCO use the facilities, methods, or data standards provided or required by the SDR to which the entity or counterparty reports the swap data.

b. New Regulations for Data Validation Acceptance Messages

The Commission is proposing to specify the requirements for data validation acceptance messages for SDRs, SEFs, DCMs, DCOs, and reporting counterparties. As proposed § 45.13(b)(1) would require that for each required swap creation data or required swap continuation data report submitted to an SDR, an SDR notify the reporting counterparty, SEF, DCM, DCO or third-party service provider submitting the report whether the report satisfied the swap data validation procedures of the SDR. The SDR would be required to provide such notification ASATP after accepting the required swap creation data or required swap continuation data report. An SDR would satisfy these requirements by transmitting data validation acceptance messages as required by proposed § 49.10.

Proposed § 45.13(b)(2) would require that if a required swap creation data or required swap continuation data report to an SDR does not satisfy the data validation procedures of the SDR, the reporting counterparty, SEF, DCM, or DCO required to submit the report has not yet satisfied its obligation to report required swap creation or continuation data in the manner provided by paragraph (a) within the timelines set forth in §§ 45.3 and 45.4. The reporting counterparty, SEF, DCM, or DCO has not satisfied its obligation until it submits the required swap data report in the manner provided by paragraph (a), which includes the requirement to satisfy the data validation procedures of the SDR, within the applicable time deadline set forth in §§ 45.3 and 45.4.

3. § 45.13(c)—Delegation of Authority to the Chief Information Officer

Current § 45.13(c) and (d) contain a delegation of authority to the Chief Information Officer of the Commission concerning the requirements in § 45.13(a). The Commission is proposing to remove the delegation, delegate authority to the Director of the Division of Market Oversight, and move the delegation to new § 45.15. New § 45.15 is discussed in the next section.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 45.13. The Commission also invites specific comment on the following:

(12) Should the Commission provide a limited exception to the validation requirements for swaps that, for instance, may be a new type of swaps that may fall within one of the five asset classes, but for which swap data reporting standards have not yet been adopted?

(13) Even with technical standards published by the Commission, there is a risk of inconsistent data across SDRs if the Commission allows the SDRs to specify the facilities, methods or data standards for reporting. In order to ensure data quality, should the Commission mandate a certain standard for reporting to the SDRs? If so, what standard would you propose and what would be the benefits? If not, why not?

(14) The CPMI–IOSCO Governance Arrangements for critical OTC derivatives data elements (other than UTI and UPI) (''CDE Governance Arrangements''),[179] assigned ISO to execute the maintenance functions for the CDE data elements included in the CDE Technical Guidance. Some of the reasons include that almost half of the CDE data elements are already tied to an ISO standard and because ISO has significant experience maintaining data standards, specifically in financial

[176] 2019 Part 49 NPRM at 21060.

[177] *Id.*

[178] *Id.* at 21060 n.132 (noting the Commission's expectation to modify § 45.13 in a subsequent Roadmap rulemaking).

[179] *https://www.iosco.org/library/pubdocs/pdf/IOSCOPD642.pdf.*

services. CPMI and IOSCO, in the CDE Governance Arrangements, also decided that the CDE data elements should be included in the ISO 20022 data dictionary and supported the development of an ISO 20022-compliant message for CDE data elements. Given these factors, should the Commission consider mandating ISO 20022 message scheme for reporting to SDRs? Please comment on the advantages and disadvantages of mandating ISO 20022 for swap transaction reporting.

L. § 45.15 [180]*—Delegation of Authority*

The Commission is proposing to add a new section to its regulations for delegations of authority. As proposed, § 45.15 would be titled ''Delegation of authority,'' and would contain the delegation of authority currently in § 45.11 and add a new delegation of authority to the Director of the Division of Market Oversight regarding the reporting under § 45.13.

Current § 45.11(c) delegates to the Chief Information Officer of the Commission, or other such employee he or she designates, with respect to swaps in an asset class not accepted by any SDR, the authority to determine: The manner, format, coding structure, and electronic data transmission standards and procedures acceptable to the Commission; whether the Commission may permit or require use by reporting entities or counterparties in reporting pursuant to § 45.11 of one or more particular data standards (such as FIX, FpML, ISO 20022, or some other standard), in order to accommodate the needs of different communities of users; and the dates and times at which required swap creation data or required swap continuation data shall be reported to the Commission.

Current § 45.11(d) requires the Chief Information Officer to publish from time to time in the **Federal Register** and on the website of the Commission the format, data schema, electronic data transmission methods and procedures, and dates and times for reporting acceptable to the Commission with respect to swap data reporting pursuant to § 45.11.

Separately, current § 45.13 delegates to the Chief Information Officer, until the Commission orders otherwise, the authority to establish the format by which SDRs maintain swap data reported to it, and the format by which SDRs transmit the data to the Commission. The authority includes the authority to determine the manner, format, coding structure, and electronic data transmission standards and procedures acceptable to the Commission for the purposes of § 45.13(a); and the authority to determine whether the Commission may permit or require use by reporting entities or counterparties, or by SDRs, of one or more particular data standards (such as FIX, FpML, ISO 20022, or some other standard), in order to accommodate the needs of different communities of users, or to enable SDRs to comply with § 45.13(a).

Current § 45.13(d) requires the Chief Information Officer to publish from time to time in the **Federal Register** and on the website of the Commission the format, data schema, and electronic data transmission methods and procedures acceptable to the Commission.

The Commission is proposing to move the delegations in §§ 45.11(c) through (d) and 45.13(c) through (d) to § 45.15(a) and (b). The Commission is also proposing to update the delegations to reflect the changes to the cross-references resulting from the Commission's amendments to part 45. Proposed § 45.15(b) would therefore delegate to the Director of DMO, until the Commission orders otherwise, the authority set forth in § 45.13(a)(1), to be exercised by the Director of DMO or by such other employee or employees of the Commission as may be designated from time to time by the Director of DMO. The DMO Director would be able to submit to the Commission for its consideration any matter which has been delegated pursuant to § 45.13(b). Nothing in § 45.15(b) would prohibit the Commission, at its election, from exercising the authority delegated in § 45.15(b).

The authority delegated to the Director of DMO would continue to include, subject to the above-mentioned updates: (1) The authority to publish the technical specifications providing the form and manner for reporting the swap data elements in appendix 1 to SDRs as provided in § 45.13(a)(1); (2) the authority to determine whether the Commission may permit or require use by SEFs, DCMs, DCOs, or reporting counterparties in reporting pursuant to § 45.13(a)(1) of one or more particular data standards (such as FIX, FpML, ISO 20022, or some other standard), in order to accommodate the needs of different communities of users; and (3) the dates and times at which required swap creation data or required swap continuation data shall be reported pursuant to § 45.13(a)(1). Section 45.15(b)(4) would continue to provide, with updates, that (4) the DMO director publish from time to time in the **Federal Register** and on the website of the Commission the technical specifications for swap data reporting pursuant to § 45.13(a)(1).

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 45.15.

III. Proposed Amendments to Part 46

Part 46 of the Commission's regulations establishes the requirements for reporting pre-enactment and transition swaps to SDRs. In some instances, the proposed revisions to part 45 described in section II above would necessitate corresponding revisions and amendments to the regulations in part 46. The Commission describes any substantive revisions and amendments in this section.

A. § 46.1—Definitions

Current § 46.1 contains the definitions for terms used throughout the regulations in part 46. Current § 46.1 does not contain any subordinate paragraphs. The Commission is proposing to separate § 46.1 into two paragraphs: § 46.1(a) for definitions and § 46.1(b), which would state that terms not defined in part 46 have the meanings assigned to the terms in § 1.3.

The Commission is proposing to add a definition of ''historical swaps'' to § 46.1(a). As proposed, ''historical swaps'' would mean pre-enactment swaps or transition swaps. This term is already used in part 46.

The Commission is proposing to add a definition of ''substitute counterparty identifier'' to § 46.1(a). As proposed, ''substitute counterparty identifier'' would mean a unique alphanumeric code assigned by an SDR to a swap counterparty prior to the Commission designation of an LEI identifier system on July 23, 2012. The term ''substitute counterparty identifier'' is already used throughout § 46.4.

The Commission is proposing non-substantive minor technical changes to ''asset class'' and ''required swap continuation data.''

The Commission is proposing to amend the definition of ''non-SD/MSP counterparty'' in § 46.1(a) to conform to the amendments proposed to the corresponding term in § 45.1(a).[181] The Commission is proposing to update the term throughout part 46.

The Commission is proposing to amend the definition of ''reporting counterparty'' to update the reference to

[180] The Commission has proposed amendments to § 45.14 in the 2019 Part 49 NPRM. Therefore, § 45.14 will not be discussed in this release. *See* 2019 Part 49 NPRM at 21067.

[181] The proposed amendments to the term in § 45.1(a) are discussed in section II.A.2 above.

''swap data.'' Currently, ''reporting counterparty'' means the counterparty required to report swap data pursuant to part 46, selected as provided in § 46.5. As discussed in section II.A.1 above, the Commission is proposing to define ''swap data'' to mean swap data reported pursuant to part 45. As a result, the Commission is proposing to change the reference to ''data for a pre-enactment swap or transition swap'' to reflect that the reference is to part 46 data.

The Commission is proposing to remove the following definitions from § 46.1. The Commission has determined that the following definitions are redundant because the terms are already defined in either § 1.3 or CEA section 1a: ''Credit swap;'' ''foreign exchange forward;'' ''foreign exchange instrument;'' ''foreign exchange swap;'' ''interest rate swap;'' ''major swap participant;'' ''other commodity swap;'' ''swap data repository;'' and ''swap dealer.''

The Commission is proposing to remove the definition of ''international swap,'' as there are no regulations for international swaps in part 46.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 46.1.

B. § 46.3—Data Reporting for Pre-Enactment Swaps and Transition Swaps

Current § 46.3(a)(2)(i) [182] requires that for each uncleared pre-enactment or transition swap in existence on or after April 25, 2011, throughout the existence of the swap following the compliance date, the reporting counterparty must report all required swap continuation data required to be reported pursuant to part 45, with the exception that when a reporting counterparty reports changes to minimum PET data for a pre-enactment or transition swap, the reporting counterparty is required to report only changes to the minimum PET data listed in appendix 1 to part 46 and reported in the initial data report made pursuant to § 46(a)(1), rather than changes to all minimum PET data listed in appendix 1 to part 45.

The Commission is proposing to amend § 46.3(a)(2)(i) to remove the exception from PET data reporting for pre-enactment and transition swaps to specify that reporting counterparties would report updates to pre-enactment and transition swaps according to part 45. The Commission believes this is current practice and would not result in any significant change for the entities reporting updates to historical swaps.

Therefore, proposed § 46.3(a)(2)(i) would require that for each uncleared pre-enactment swap or transition swap in existence on or after April 25, 2011, throughout the existence of the swap following the compliance date, the reporting counterparty shall report all required swap continuation data as required by part 45.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 46.3.

C. § 46.10—Required Data Standards

Current § 46.10 requires that in reporting swap data to an SDR as required by part 46, each reporting counterparty use the facilities, methods, or data standards provided or required by the SDR to which counterparty reports the data.

The Commission is proposing to add a provision that ''[i]n reporting required swap continuation data as required by this part, each reporting counterparty shall comply with the required data standards set forth in part 45 of this chapter, including those set forth in § 45.13(a) of this chapter.'' As discussed above in the previous section, the Commission believes this is current practice for reporting counterparties and should not result in any significant change for reporting counterparties.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 46.10.

D. § 46.11—Reporting of Errors and Omissions in Previously Reported Data

Consistent with the Commission's proposal to remove the option to report required swap continuation data by the state data reporting method, discussed in section II.D.2 above, the Commission proposes to remove the option in § 46.11(b) for pre-enactment/transition swaps reporting. Specifically, § 46.11(b) currently provides that for pre-enactment or transition swaps for which part 46 requires reporting of continuation data, reporting counterparties reporting state data as provided in part 45 may fulfill the requirement to report errors or omissions by making appropriate corrections in their next daily report of state data pursuant to part 45. Further to the proposed removal of current § 46.11(b), the Commission is also proposing to re-designate current § 46.11(c) and (d) as new § 46.11(b) and (c), respectively.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 46.11.

IV. Proposed Amendments to Part 49

A. § 49.2—Definitions

The Commission is proposing to add four definitions to § 49.2(a): ''Data validation acceptance message,'' ''Data validation error,'' ''Data validation error message,'' and ''Data validation procedures.'' [183] The four definitions are explained in a discussion of the proposed § 49.10 regulations for the acceptance and validation of data in section IV.C below.

B. § 49.4—Withdrawal From Registration

The Commission is proposing to amend the § 49.4 regulations for SDR withdrawals from registration. Current § 49.4(a)(1)(iv) requires that a request to withdraw filed pursuant to § 49.4(a)(1) shall specify, among other items, a statement that the custodial SDR is authorized to make such data and records available in accordance with § 1.44.[184]

Current § 49.4(a)(2) requires that prior to filing a request to withdraw, a registered SDR shall file an amended Form SDR to update any inaccurate information. A withdrawal of registration shall not affect any action taken or to be taken by the Commission based upon actions, activities or events occurring during the time that the facility was designated by the Commission.

First, the Commission is proposing to remove the § 49.4(a)(1)(iv) requirement for SDRs to submit a statement to the Commission that the custodial SDR is authorized to make the withdrawing SDR's data and records available in accordance with § 1.44. The reference to § 1.44 is erroneous. Section 1.44 requires ''depositories'' to maintain all books, records, papers, and memoranda relating to the storage and warehousing of commodities in such warehouse, depository or other similar entity for a period of 5 years from the date thereof.[185] The recordkeeping

[182] The Commission is not proposing substantive amendments outside of § 46.3(a)(2)(i).

[183] The Commission has also proposed to define the term ''SDR data'' in the 2019 Part 49 NPRM. As proposed, ''SDR data'' would mean the specific data elements and information required to be reported to an SDR or disseminated by an SDR, pursuant to two or more of parts 43, 45, 46, and/or 49, as applicable. *See* 2019 Part 49 NPRM at 21047. The term ''SDR data'' is also used in the proposed amendments to § 49.10 in this release.

[184] The Commission is not proposing substantive amendments to § 49.4(a)(1)(i) through (iii). The Commission is limiting the discussion in this release to § 49.4(a)(1)(iv).

[185] 17 CFR 1.44(d).

requirements for SDRs are located in § 49.12.[186] The Commission is proposing to remove erroneous § 49.4(a)(1)(iv) to avoid confusion.

Second, the Commission is proposing to remove the § 49.4(a)(2) requirement that prior to filing a request to withdraw, a registered SDR file an amended Form SDR to update any inaccurate information.[187] The Commission believes that this requirement is unnecessary and does not help the Commission confirm the successful transfer of data and records to a custodial SDR. The Commission has a significant interest in ensuring that the data and records of an SDR withdrawing from registration are successfully transferred to a custodial SDR. In addition, the Commission needs confirmation that the custodial SDR will retain the data and records for at least the remainder of the time that records are required to be retained according to the Commission's recordkeeping rules. When an SDR is withdrawing from registration, the Commission would no longer have a regulatory need for the information in Form SDR to be updated.

The Commission is proposing to instead create a new requirement in § 49.4(a)(2) for SDRs to execute an agreement with the custodial SDR governing the custody of the withdrawing SDR's data and records prior to filing a request to withdraw with the Commission. Proposed § 49.4(a)(2) would also specify that the custodial SDR retain such records for at least as long as the remaining period of time the SDR withdrawing from registration would have been required to retain such records pursuant to part 49. The Commission believes that proposed § 49.4(a)(2) would better address the Commission's primary concerns in an SDR withdrawal from registration.

Therefore, § 49.4(a)(2) would require that prior to filing a request to withdraw, an SDR shall execute an agreement with the custodial SDR governing the custody of the withdrawing SDR's data and records. The custodial SDR shall retain such records for at least as long as the remaining period of time the SDR withdrawing from registration would have been required to retain such records pursuant to part 49.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 49.4.

C. § 49.10—Acceptance and Validation of Data

The Commission is proposing to revise the § 49.10(a) through (d)[188] and (f) requirements for the acceptance of data. As part of these revisions, the Commission is proposing to retitle the section to reflect new requirements for SDRs to validate data proposed in § 49.10(c) as ''Acceptance and validation of data.''

1. § 49.10(a)—General Requirements

The Commission is proposing to amend the general requirements in § 49.10(a) for SDRs to have policies and procedures to accept swap data and swap transaction and pricing data. Section 49.10(a) requires that registered SDRs establish, maintain, and enforce policies and procedures for the reporting of swap data to the registered SDR and shall accept and promptly record all swap data in its selected asset class and other regulatory information that is required to be reported pursuant to parts 43 and 45 by DCMs, DCOs, SEFs, SDs, MSPs, or non-SD/MSP counterparties.

First, the Commission is proposing to title § 49.10(a) ''General requirements'' to distinguish it from the rest of the requirements in § 49.10. Second, the Commission is proposing to number the requirement in § 49.10(a) as § 49.10(a)(1), and renumber § 49.10(a)(1) as § 49.10(a)(2).

Third, the Commission is proposing to revise the first sentence to specify that SDRs shall maintain and enforce policies and procedures reasonably designed to facilitate the complete and accurate reporting of SDR data.

Fourth, the Commission is proposing to remove the last phrase of § 49.10(a) beginning with ''all swap data in its selected asset class'' and create a second sentence requiring SDRs to promptly accept, validate, and record SDR data.

Finally, the Commission is proposing non-substantive edits to § 49.10(a)(1), renumbered as § 49.10(a)(2), to correct references to defined terms and improve consistency in use of terminology. Together, the amendments to § 49.10(a)(1) through (2) would improve the readability of § 49.10(a) while updating the terminology to use the proposed ''SDR data'' term for the data SDRs are required to accept, validate, and record pursuant to § 49.10.[189]

Therefore, § 49.10(a)(1) would require that an SDR shall establish, maintain, and enforce policies and procedures reasonably designed to facilitate the complete and accurate reporting of SDR data. Proposed § 49.10(a)(1) would further provide that an SDR shall promptly accept, validate, and record SDR data.

Proposed § 49.10(a)(2) would require that for the purpose of accepting SDR data, the SDR shall adopt policies and procedures, including technological protocols, which provide for electronic connectivity between the SDR and DCMs, DCOs, SEFs, SDs, MSPs, and non-SD/MSP/DCO reporting counterparties who report such data. Proposed § 49.10(a)(2) would further provide that the technological protocols established by an SDR shall provide for the receipt of SDR data. The SDR shall ensure that its mechanisms for SDR data acceptance are reliable and secure.

2. § 49.10(b)—Duty To Accept SDR Data

The Commission is proposing to amend the § 49.10(b) requirements for SDRs to accept SDR data. Current § 49.10(b) requires that a registered SDR shall set forth in its application for registration as described in § 49.3 the specific asset class or classes for which it will accept swaps data. If an SDR accepts swap data of a particular asset class, then it shall accept data from all swaps of that asset class, unless otherwise prescribed by the Commission.

First, the Commission is proposing to title § 49.10(b) ''Duty to accept SDR data'' to distinguish it from the other requirements of § 49.10. Second, the Commission is proposing to update references to data in § 49.10(b) to ''SDR data'' to use the correct defined term. These amendments would not change the substantive requirements of § 49.10(b).

Therefore, § 49.10(b) would require that an SDR shall set forth in its application for registration as described in § 49.3 the specific asset class or classes for which it will accept SDR data. If an SDR accepts SDR data of a particular asset class, then it shall

[186] The Commission has proposed amendments to § 49.12 in the 2019 Part 49 NPRM. However, these amendments do not impact the substance of the SDR recordkeeping requirements. *See* 2019 Part 49 NPRM at 21055. Pursuant to § 49.12(b), SDRs must maintain swap data, including historical positions, throughout the existence of the swap and for five years following final termination of the swap, during which time the records must be readily accessible to the Commission via real-time electronic access; and in archival storage for which the swap data is retrievable by the SDR within three business days.

[187] Current § 49.4(a)(2) further provides that a withdrawal of registration shall not affect any action taken or to be taken by the Commission based upon actions, activities or events occurring during the time that the facility was designated by the Commission. The Commission is proposing to remove this part of § 49.4(a)(2) as well.

[188] The Commission has proposed amendments to the § 49.10(e) requirements for correction of errors and omissions in SDR data in the 2019 Part 49 NPRM. *See* 2019 Part 49 NPRM at 21050.

[189] The background for the proposed validations regulations is discussed in section IV.C.3 below.

accept SDR data from all swaps of that asset class, unless otherwise prescribed by the Commission.

3. § 49.10(c)—Duty To Validate SDR Data

As part of the revisions to § 49.10, the Commission is proposing to add new regulations for the SDR validation of SDR data in § 49.10(c). The Commission is proposing to move the requirements in current § 49.10(c) to § 49.10(d).[190]

SDRs currently check each swap report for compliance with a list of rules specific to each SDR. However, the Commission is concerned that SDRs apply different validation rules that could be making it difficult for SDR data to either be reported to the SDR or the SDRs' real-time public data feeds. The SDRs applying different validations to swap reports creates numerous challenges for the Commission and market participants. While one SDR may reject a report based on an incorrect value in a particular swap data element, another SDR may accept reports containing the same erroneous value in the same data element. Further, the Commission is concerned that responses to SDR validation messages vary across reporting counterparties, given the lack of current standards.

The Commission received several comments on data validations in response to the Roadmap. Commenters were broadly supportive[191] of including swap data validations in revisions to the Commission's data reporting regulations.[192] Commenters recommended that the requirements for data validation be implemented at the same time or after the Commission harmonized and updated the data elements to be reported[193] and that the validations be implemented all at once.[194] Many commenters also requested that the Commission provide specific guidance and requirements for the validations, including, for example, a defined list of minimum validations, form and manner specifications, mapping, and allowable values.[195]

Commenters diverged in some instances in regards to continuing the SDRs' current validation practices. The SDRs advocated for leveraging existing SDR validation processes in order to minimize the costs associated with system changes.[196] The SDRs also argued that the SDRs should not be required to implement the exact same validations and that the SDRs should have the flexibility to design their own validations, as long as the data is provided to the Commission in the mandated format.[197] In contrast, one commenter advocated for the Commission to ensure that data element collection and validations are consistent across all SDRs.[198] The commenter also advocated for limiting the data SDRs may request to the data required under the Commission's regulations.[199]

Commenters also raised other specific validation-related issues. The SDRs suggested that data should be required to be validated against public sources, to the extent possible, such as the GLEIF database for LEIs.[200] One commenter stated that the Commission should resolve any uncertainty regarding what a reporting counterparty must report when a data element may not apply to the reported swap and/or data may not be available at the time of reporting.[201]

ESMA has published specific validations for TRs to perform to ensure that derivatives data meets the requirements set out in the technical standards pursuant to EMIR.[202] ESMA's validations, for instance, set forth when data elements are mandatory, conditional, optional, or must be left blank, and specify conditions for data elements along with the format and content of allowable values for almost 130 data elements.[203]

The Commission believes that similarly consistent SDR validations would help improve data quality. Therefore, the Commission is proposing to require SDRs to apply validations and inform the entity submitting the swap report of any associated rejections. SDRs would be required to apply the validations approved in writing by the Commission. The Commission is also proposing regulations for SDRs to send validation messages to SEFs, DCMs, and reporting counterparties.[204] The Commission believes that the consistent application of validation rules across SDRs would lead to an improvement in the quality of swap data maintained at SDRs.

Proposed § 49.10(c)(1) would provide that SDRs shall validate each SDR data report submitted and notify the reporting counterparty, SEF, DCM, or third party service provider submitting the report whether the report satisfied[205] the data validation procedures[206] of the SDR ASATP after accepting the SDR data report.

Proposed § 49.10(c)(2) would provide that if SDR data contains one or more data validation errors,[207] the SDR shall distribute a data validation error message[208] to the DCM, SEF, reporting counterparty, or third-party service provider that submitted such SDR data ASATP after acceptance of such data. Each data validation error message shall indicate which specific data validation error(s) was identified in the SDR data.

Proposed § 49.10(c)(3) would require that if an SDR allows for the joint submission of swap transaction and pricing data and swap data, the SDR validate the swap transaction and pricing data and swap data separately. Swap transaction and pricing data that satisfies the data validation procedures applied by an SDR shall not be deemed to contain a data validation error because it was submitted to the SDR jointly with swap data that contained a data validation error.

[190] The amendments to the current requirements of § 49.10(c), proposed to be moved to § 49.10(d), are discussed in section IV.C.4 below.

[191] No comment letters directly opposed data validations, though not all letters addressed the topic.

[192] Joint SDR Letter at 1–4, 6, 9; Letter from Chatham at 3; Letter from CME at 2; Letter from DTCC at 2–3; Letter from Eurex Clearing AG (''Eurex'') (Aug. 21, 2017) at 3; Letter from GFMA at 5–6; Joint ISDA–SIFMA Letter at 3, 6; Letter from LCH at 3.

[193] Joint SDR Letter at 1–3, 9; Letter from CME at 2; Letter from GFMA at 5–6; Joint ISDA–SIFMA Letter at 3, 6.

[194] Joint SDR Letter at 9.

[195] Joint SDR Letter at 4, 6; Letter from DTCC at 2–3; Joint ISDA–SIFMA Letter at 3, 6; Letter from LCH at 3.

[196] Joint SDR Letter at 2; Letter from CME at 2; Letter from DTCC at 2.

[197] Joint SDR Letter at 3; Letter from DTCC at 2–3.

[198] Joint ISDA–SIFMA Letter at 6.

[199] *Id.* at 5.

[200] Joint SDR Letter at 4.

[201] Joint ISDA–SIFMA Letter at 6. The Commission has requested specific comment on this issue above in connection with § 45.13.

[202] *See https://www.esma.europa.eu/policy-rules/post-trading/trade-reporting.*

[203] *See id.*

[204] The Commission is also proposing regulations for reporting counterparties, SEFs, and DCMs to address the validations messages sent by SDRs and to resubmit any rejected swap reports in time to meet their obligations to report creation and continuation data. The requirements for reporting counterparties, SEFs, and DCMs to comply with SDR validations are proposed in § 45.13(b).

[205] The Commission is proposing to define ''data validation acceptance message'' to mean a notification that SDR data satisfied the data validation procedures applied by an SDR.

[206] The Commission is proposing to define ''data validation procedures'' to mean procedures established by an SDR pursuant to § 49.10 to validate SDR data reported to the SDR.

[207] The Commission is proposing to define ''data validation error'' to mean that a specific data element of SDR data did not satisfy the data validation procedures applied by an SDR.

[208] The Commission is proposing to define ''data validation error message'' to mean a notification that SDR data contained one or more data validation error(s).

4. § 49.10(d)—Policies and Procedures To Prevent Invalidation or Modification

As described above, the Commission is proposing to move the requirement currently in § 49.10(c) for SDRs to have policies and procedures to prevent invalidations or modifications of swaps to an amended § 49.10(d). As a result, the Commission is also proposing to redesignate § 49.10(d) as new § 49.10(f).[209] Section 49.10(c) currently requires registered SDRs to establish policies and procedures reasonably designed to prevent any provision in a valid swap from being invalidated or modified through the confirmation or recording process of the SDR.[210]

The Commission is also proposing non-substantive amendments to the current language of § 49.10(c), proposed to be moved to § 49.10(d). For instance, the Commission is proposing to title § 49.10(c) ''Policies and procedures to prevent invalidation or modification'' to distinguish it from the other requirements in § 49.10.

In light of the above proposed amendments, § 49.10(d) would require SDRs to establish policies and procedures reasonably designed to prevent provision in a valid swap from being invalidated or modified through the verification or recording process of the SDR. The policies and procedures shall ensure that the SDR's user agreements are designed to prevent any such invalidation or modification.

5. § 49.10(f)—Policies and Procedures for Resolving Disputes Regarding Data Accuracy

As described above, the Commission is proposing to redesignate § 49.10(d) as § 49.10(f).[211] The Commission is also proposing non-substantive amendments to the requirements currently set out in § 49.10(d), proposed to be redesignated as new § 49.10(f). Current § 49.10(d) requires that registered SDRs establish procedures and provide facilities for effectively resolving disputes over the accuracy of the swap data and positions that are recorded in the SDR.

First, the Commission is proposing to title § 49.10(f) ''Policies and procedures for resolving disputes regarding data accuracy'' to distinguish it from the other requirements of § 49.10. Second, the Commission is proposing to update terminology in the regulation. These updates include replacing ''swap'' with the correct term ''SDR data, and removing the term ''registered'' before references to SDRs.

Therefore, in light of the above proposed amendments, § 49.10(f) would require SDRs to establish procedures and provide facilities for effectively resolving disputes over the accuracy of the SDR data and positions that are recorded in the SDR.

Request for Comment

The Commission requests comment on all aspects of the proposed changes to § 49.10.

V. Swap Data Elements Reported to Swap Data Repositories

A. General

The Commission is proposing to revise appendix 1 to part 45 to update and further standardize the swap data being reported to SDRs and the swap data SDRs make available to the Commission. The Commission's current minimum primary economic terms for swaps in each swap asset class are found in appendix 1 to part 45. The current primary economic terms for swaps contain a set of ''data categories and fields'' followed by ''comments'' instead of specifications such as allowable values, formats, and conditions.[212] In some cases, these comments include directions, such as to use ''yes/no'' indicators for certain data elements (*e.g.,* an indication whether the reporting counterparty is an SD).[213] In others, the comments reference Commission regulations (*e.g.,* to report the LEI of the non-reporting counterparty ''[a]s provided in § 45.6'').[214]

In adopting part 45, the Commission intended that the primary economic terms would ensure uniformity in ''essential data'' concerning swaps across all of the asset classes and across SDRs to ensure the Commission had the necessary information to characterize and understand the nature of reported swaps.[215] However, in practice, this approach permitted a degree of discretion in reporting swap data that led to a lack of standardization, and therefore a reduction in data quality, which makes it more difficult for the Commission to analyze and aggregate swap data. The Commission recognizes that each SDR has worked to standardize the data within each SDR over recent years, and Commission staff has noted the improvement in data quality. The Commission however believes a significant effort must be made to standardize swap data across SDRs. As a result, the Commission decided to revisit the data elements currently required to be reported to SDRs in appendix 1 to part 45.

In the Roadmap, DMO announced an intention to propose detailed technical specifications once the CPMI–IOSCO harmonization efforts had sufficiently progressed.[216] In the Roadmap, DMO also signaled its intention to match foreign regulators as closely as possible in the technical specifications, but noted that some data elements may be different depending on Commission's needs.[217]

In response to the Roadmap, DMO received many comments on swap data elements. Commenters broadly supported efforts to reduce the number of reportable data elements and to remove the requirement to report ''any other term(s) of the swap matched or affirmed'' by the counterparties (commonly known as the ''catchall'' provision).[218] Commenters were also broadly supportive of the CPMI–IOSCO harmonization efforts to standardize critical data elements,[219] as both reducing burdens on reporters [220] and as increasing the utility of the data for regulators and the users of public data.[221]

Several commenters asked for precise definitions for required data elements.[222] Several commenters acknowledged that the Commission may require some data elements beyond the final CDE Technical Guidance data elements,[223] but cautioned the Commission to be careful when making that determination.[224] One commenter, while supporting harmonization generally, opposed expanding reporting

[209] The amendments to the current requirements of § 49.10(d), proposed to be redesignated as § 49.10(f), are discussed in section IV.C.5 below.

[210] Current § 49.10(c) further provides that the policies and procedures must ensure that the SDR's user agreements must be designed to prevent any such invalidation or modification. 17 CFR 49.10(c).

[211] The Commission's proposed revisions to § 49.10(e) are discussed in the 2019 part 49 NPRM. *See* 2019 part 49 NPRM at 21050.

[212] *See generally* 17 CFR 45 appendix 1.

[213] *Id.*

[214] *Id.*

[215] *See* 77 FR at 2149.

[216] *See* Roadmap at 9.

[217] *Id.*

[218] Joint SDR Letter at 8; Letter from Chatham at 5; Letter from CME at 3; Letter from NRECA–APPA at 3; Letter from LCH at 2; Joint ISDA–SIFMA Letter at 7; Letter from the Natural Gas Supply Association (''NGSA'') at 1.

[219] Letter from ACLI at 2; Joint SDR Letter at 7; Letter from Chatham at 5; Letter from CEWG at 3; Letter from the Coalition for Derivatives End Users (''CDEU'') (Aug. 21, 2017) at 5; Letter from DTCC at 2; Letter from Eurex at 3–4; Letter from GFMA at 3; Joint ISDA–SIFMA Letter at 5; Letter from Japanese Bankers Association (''JBA'') (Aug. 21, 2017) at 2; Letter from SIFMA Asset Management Group (''AMG'') (Aug. 18, 2017) at 2.

[220] Letter from GFMA at 3; Letter from JBA at 2; Joint SDR Letter at 8.

[221] Letter from Better Markets (Aug. 21, 2017) at 7; Letter from DTCC at 2; Letter from GFMA at 3; Joint ISDA–SIFMA Letter at 5.

[222] Letter from GFMA at 4; Letter from CEWG at 3; Letter from CME at 3; Letter from Eurex at 3–4.

[223] Joint SDR Letter at 9.

[224] Letter from GFMA at 4.

to cover any additional data elements.[225] Two commenters noted that differences between the CFTC and other regulators, including the SEC, were not only in the data elements that must be reported, but also in what transactions must be reported.[226]

Several commenters indicated potential opposition to individual CDE Technical Guidance data elements.[227] Another commenter recommended using the final CDE Technical Guidance as a ''tool'' rather than a ''mandate,'' and to only implement those data elements that the Commission needs for its oversight obligations.[228] One commenter suggested not pursuing the data elements proposed in DMO's December 2015 Request for Comment on Draft Technical Specifications for Certain Swap Data Elements, as they would unnecessarily increase costs without benefits.[229]

In the course of revisiting which swap data elements should be reported to SDRs, the Commission reviewed the swap data elements currently in appendix 1 to part 45 to determine if any currently required data elements should be eliminated and if any additional data elements should be added. The Commission then reviewed the CDE Technical Guidance to determine which data elements the Commission could adopt according to the CDE Technical Guidance.

As a general matter, the Commission believes that the implementation of the CDE Technical Guidance will further improve the harmonization of SDR data across FSB member jurisdictions. This international harmonization, when widely implemented, would allow market participants to report swap data to several jurisdictions in the same format, allowing for potential cost-savings. This harmonization, when widely implemented, would also allow the Commission to potentially receive more standardized information regarding swaps reported to TRs regulated by other authorities. For instance, such standardization across SDRs and TRs could support data aggregation for the analysis of global systemic risk in swaps markets.

As part of this process, the Commission also reviewed the part 43 swap transaction and pricing data and part 45 swap data elements to determine whether any differences could be reconciled.[230] Having completing this assessment, the Commission is proposing to list the swap data elements required to be reported to SDRs pursuant to part 45 in appendix 1 to part 45. In a separate NPRM, the Commission is proposing to list the swap transaction and pricing data elements required to be reported to, and then publicly disseminated by, SDRs pursuant to part 43 in appendix C to part 43. The swap transaction and pricing data elements would be a harmonized subset of the swap data elements in appendix 1 to part 45.

At the same time as the Commission is proposing to update the swap data elements in appendix 1, DMO is publishing draft technical specifications for reporting the swap data elements in appendix 1 to part 45 to SDRs, as specified in proposed § 45.13(a)(1), and for reporting and publicly disseminating the swap transaction and pricing data elements in appendix C to part 43 described in a separate NPRM. DMO would then publish the technical specifications in the **Federal Register** pursuant to the delegation of authority proposed in § 45.15(b).

DMO is proposing to establish technical standards for certain swap data elements according to the CDE Technical Guidance, where possible. Commenters are invited to comment on both the technical standards and the swap data elements proposed in appendix 1.

The swap data elements proposed to be reported to SDRs would therefore consist of: (i) The data elements implementing the CDE Technical Guidance; and (ii) additional CFTC-specific data elements that support the Commission's regulatory responsibilities.[231] While, as explained below, much of this swap data is already being reported to SDRs according to each SDR's technical standards, the technical standards and validation conditions that the Commission is proposing for the SDRs to implement would be new. A discussion of the swap data elements and requests for comment on the technical standards follows below. Data elements specific to part 43 are discussed in the separate part 43 NPRM.

B. Swap Data Elements To Be Reported to Swap Data Repositories

DMO's proposed technical standards contains an extensive introduction to help reviewers. As a preliminary matter, the Commission notes that the swap data elements in appendix 1 do not include swap data elements specific to swap product terms. The Commission is currently heavily involved in separate international efforts to introduce UPIs.[232] The Commission preliminarily expects UPIs will be available within the next two years.[233] Until the Commission designates a UPI pursuant to § 45.7, the Commission is proposing SDRs continue to accept, and reporting counterparties continue to report, the product-related data elements unique to each SDR. The Commission believes this temporary solution would have SDRs change their systems only once when UPI becomes available, instead of twice if the Commission proposes standardized product data elements in this release before UPIs are available and then later designates UPIs pursuant to § 45.7.

In addition, the Commission notes that it has endeavored to propose adopting the CDE Technical Guidance data elements as closely as possible. Where the Commission proposes adopting a CDE Technical Guidance data element, the Commission has proposed adopting the terms used in the CDE Technical Guidance. This means that some terms may be different for certain concepts. For instance, ''derivatives clearing organization'' is the Commission's term for registered entities that clear swap transactions, but the CDE Technical Guidance uses the term ''central counterparty.''

To help clarify, DMO has proposed footnotes in the technical standards to explain these differences as well as provide examples and jurisdiction-specific requirements. However, the Commission has not included these footnotes in appendix 1. In addition, the definitions from CDE Technical Guidance data elements included in appendix 1 sometimes include references to allowable values in the CDE Technical Guidance, which may

[225] Letter from CEWG 3.

[226] Letter from CDEU at 6; Letter from GFMA at 3.

[227] Letter from GFMA at 4; Joint ISDA–SIFMA Letter at 4, 9; Letter from SIFMA AMG at 2.

[228] Joint ISDA–SIFMA Letter at 4.

[229] *Id.* at 8.

[230] The Commission intended that the data elements in appendix A to part 43 would be harmonized with the data elements required to be reported to an SDR for regulatory purposes pursuant to part 45. *See* 77 FR at 1226 (noting that ''it is important that the data fields for both the real-time and regulatory reporting requirements work together''). However, there is no current regulatory requirement linking the two sets of data elements.

[231] The proposed update of appendix 1 and technical standards are expected to represent a significant reduction in the number of swap data elements that could be reported to an SDR by market participants.

[232] *See* FSB, Governance arrangements for the UPI: Conclusions, implementation plan and next steps to establish the International Governance Body (Oct. 9, 2019), *available at https://www.fsb.org/2019/10/governance-arrangements-for-the-upi/*.

[233] *See id.* The FSB recommends that jurisdictions undertake necessary actions to implement the UPI Technical Guidance and that these take effect no later than the third quarter of 2022.

not be included in appendix 1, but can be found in the technical standards.

Finally, the CDE Technical Guidance did not harmonize many fields that would be particularly relevant for commodity and equity swap asset classes (*e.g.,* unit of measurement for commodity swaps). CPMI and IOSCO, in the CDE Governance Arrangements, address both implementation and maintenance of CDE, together with their oversight. One area of the CDE Governance Arrangements includes updating the CDE Technical Guidance, including the harmonization of certain data elements and allowable values that were not included in the CDE Technical Guidance (*e.g.,* data elements related to events and allowable values for the following data elements: Price unit of measure, Quantity unit of measure, and Custom basket constituents' unit of measure).

The Commission invites comment on any of the swap data elements proposed in appendix 1. The Commission briefly discusses the swap data elements below by category to simplify the topics for market participants to comment on. To the extent any comment involves data elements adopted according to the CDE Technical Guidance, however, the Commission anticipates raising issues according to the CDE Governance Arrangements procedures to help ensure that authorities follow the established processes for doing so. In addition, the Commission anticipates updating its rules to adopt any new or updated CDE Technical Guidance, as necessary.

1. Category: Clearing

The Commission is proposing to require reporting counterparties report twelve clearing data elements.[234] Nearly all of this information is currently being reported to SDRs. Three of these data elements are consistent with the CDE Technical Guidance. Four of these data elements would transition clearing swap and original swap USIs to UTIs. All of these data elements help the Commission monitor the cleared swaps market.

The Commission requests specific comment on the following related to the clearing data elements:

(15) The Commission is considering including a data element called ''Mandatory clearing indicator'' to indicate whether a swap is subject to the clearing requirement in part 50 of the Commission's regulations. The Commission requests specific comment on whether commenters believe this data element could be reported to SDRs.

2. Category: Counterparty

The Commission is proposing to require reporting counterparties report ten counterparty data elements.[235] Nearly all of this information is currently being reported to SDRs. Six of these data elements are consistent with the CDE Technical Guidance.

The Commission requests specific comment on the following related to the counterparty data elements:

(16) The CFTC needs the ability to link swap counterparties to their parent entities to aggregate swap data to be able to monitor risk. Given the complicated nature of how some entities are structured within a larger legal entity, the CFTC also needs information related to the ultimate parent entity. The Commission believes this information is necessary to collect for both swap counterparties. The Commission requests specific comment on whether commenters believe this data could be reported as part of swap data reporting.[236] Given the static nature of these relationships, the Commission requests comment on whether reporting counterparties should report parent and ultimate parent information for each swap trade or in a regularly updated (*e.g.,* monthly or quarterly) reference file maintained by SDRs.

3. Category: Events

The Commission is proposing to require reporting counterparties report four event data elements.[237] Nearly all of this information is currently being reported to SDRs. Event data elements were not included in the CDE Technical Guidance. This information is, however, critical for the Commission to be able to properly utilize swap data. Without it, the Commission would be unable to discern why each swap event is reported following the initial required swap creation data report.

The Commission requests specific comment on the following related to the event data elements:

(17) Are there ways in which the Commission could harmonize the event model with ESMA's? Would harmonization in this area reduce burdens for SDRs and reporting counterparties? The Commission proposes to require reporting transactions for simultaneous clearing and allocation at a DCO using a new event type of ''Clearing and Allocation'' in the events model. Is there a more efficient method to report related transactions when a DCO simultaneously clears and allocates transactions?

4. Category: Notional Amounts and Quantities

The Commission is proposing to require reporting counterparties report twelve notional data elements.[238] Nearly all of this information is currently being reported to SDRs. Nine of these data elements are consistent with the CDE Technical Guidance. Exposure information, in conjunction with valuation information, is critical for, and currently used extensively by, the Commission to monitor activity and risk in the swaps market.

The Commission requests specific comment on the following related to the notional data elements:

(18) The Commission is considering including the notional schedule data elements from the CDE Technical Guidance.[239] The Commission has learned through experience with swap data that notional data elements are applicable to a substantial number of swaps within certain product areas such as energy swaps and amortizing interest rate swaps. Does such concentration exist and, if so, what gaps would exist in the Commission's ability to evaluate and monitor market activity in these areas if notional schedule data elements are inadequately or improperly represented? The Commission requests comment on whether SDRs and reporting counterparties would be able

[234] In appendix 1, these data elements are: Cleared (1); Central counterparty (2); Clearing account origin (3); Clearing member (4); Clearing swap USIs (5); Clearing swap UTIs (6); Original swap USI (7); Original swap UTI (8); Original swap SDR identifier (9); Clearing receipt timestamp (10); Clearing exemptions—Counterparty 1 (11); and Clearing exemptions—Counterparty 2 (12).

[235] In appendix 1, these data elements are: Counterparty 1 (reporting counterparty) (13); Counterparty 2 (14); Counterparty 2 identifier source (15); Counterparty 1 financial entity indicator (16); Counterparty 2 financial entity indicator (17); Buyer identifier (18); Seller identifier (19); Payer identifier (20); Receiver identifier (21); and Submitter identifier (22).

[236] The SEC has rules providing for SBSDR participants to provide SBSDRs with information sufficient to identify their ultimate parent(s) and any affiliate(s) that are also participants of the SBSDR using ultimate parent identifiers and counterparty identifiers. *See* 17 CFR 242.906(b).

[237] In appendix 1, these data elements are: Action type (24); Event type (25); Event identifier (26); and Event timestamp (27).

[238] In appendix 1, these data elements are: Notional amount (28); Notional currency (29); Delta (30); Call amount (31); Call currency (32); Put amount (33); Put currency (34); Notional quantity (35); Quantity frequency (36); Quantity frequency multiplier (37); Quantity unit of measure (38); and Total notional quantity (39).

[239] The notional schedule data elements in the CDE Technical Guidance are: 2.78.1 (Effective date of the notional amount); 2.78.2 (End date of the notional amount); 2.78.3 (Notional amount in effect on the associated effective date); 2.80.1 (Effective date of the notional quantity); 2.80.2 (End date of the notional quantity); and 2.80.3 (Notional quantity in effect on the associated effective date).

to both accept and report this information.

(19) The Commission requests specific comment on how SDRs would implement these CDE data elements for reporting counterparties to report notional schedule-related data. Should the Commission mandate a specific reporting structure for reporting notional schedule-related data elements to the SDRs? If so, what standard would you propose and what would be the benefits? If not, why not?

(20) The Commission is considering requiring reporting counterparties to provide a USD equivalent notional amount that represents the entire overall transaction for tracking notional volume (in addition to leg-by-leg notional data reported pursuant to other proposed data elements). The Commission believes that this additional data element could allow staff to more effectively assess compliance with CFTC regulations, including but not limited to SD registration and uncleared margin requirements, and help staff more efficiently monitor swap market risk. The Commission specifically requests comment on the frequency with which reporting counterparties should report USD equivalent notional.

5. Category: Packages

The Commission is proposing to require reporting counterparties to report four package transaction data elements.[240] The Commission believes some of this information is currently being reported to SDRs. Each of these data elements are consistent with the CDE Technical Guidance. The Commission anticipates using this information to better understand risk in the swaps market, as the Commission understands that many swaps are executed as part of packages.

The Commission requests specific comment on the following related to the package data elements in appendix 1:

(21) The Commission is considering including the additional package transaction data elements from the CDE Technical Guidance.[241] The Commission requests comment on whether SDRs and reporting counterparties would be able to both accept and report this information. The Commission requests specific comment on how SDRs would implement these CDE data elements for reporting counterparties to report the data.

6. Category: Payments

The Commission is proposing to require reporting counterparties report twelve data elements related to payments.[242] Nine of these data elements are consistent with the CDE Technical Guidance. Nearly all of this information is currently being reported to SDRs.

7. Category: Prices

The Commission is proposing to require reporting counterparties report eighteen data elements related to swap prices.[243] Nearly all of this information is currently being reported to SDRs. Seventeen of these data elements are consistent with the CDE Technical Guidance. This information is critical for, and currently used by, the Commission in understanding pricing in the swaps market.

The Commission requests specific comment on the following related to the price data elements:

(22) The Commission is considering including the price schedule data elements from the CDE Technical Guidance.[244] The Commission has learned through experience with swap data that price data elements are applicable to a substantial number of swaps within certain product areas such as energy swaps and amortizing interest rate swaps. Does such concentration exist and, if so, what gaps would exist in the Commission's ability to evaluate and monitor market activity in these areas if schedule data elements are inadequately or improperly represented? The Commission requests comment on whether SDRs and reporting counterparties would be able to both accept and report this information. The Commission requests specific comment on how SDRs would implement these CDE data elements for reporting counterparties to report the data. Should the Commission mandate a specific reporting structure for reporting schedule-related data elements to the SDRs? If so, what standard would you propose and what would be the benefits? If not, why not?

8. Category: Product

The Commission is proposing to require reporting counterparties report five product-related data elements.[245] The Commission believes some of this information is currently being reported to SDRs. Two of these data elements are in the CDE Technical Guidance. The Commission has preliminarily determined these data elements are critical for monitoring risk in the swaps market, even though the Commission expects any additional product data elements to remain unstandardized until the UPI is introduced.

The Commission requests specific comment on the following related to the other product data elements:

(23) The CFTC intends to collect sufficient granular detail on the economic terms of swaps to conduct independent valuation and stress testing analysis. The CFTC will rely on UPI for many product related data elements, but forthcoming UPI standards may not describe some swaps with enough detail to allow the CFTC to independently value the transaction. Are there additional product data elements the CFTC should collect outside of UPI to ensure the CFTC may independently value swaps with sufficient accuracy?

9. Category: Settlement

The Commission is proposing to require reporting counterparties report two settlement data elements.[246] The Commission believes this information is currently being reported to SDRs. These data elements are consistent with the CDE Technical Guidance.

The Commission requests specific comment on the following related to the settlement data elements:

(24) Should the Commission include the additional swap data element related to settlement included in the

[240] In appendix 1, these data elements are: Package identifier (40); Package transaction price (41); Package transaction price currency (42); and Package transaction price notation (43).

[241] In the CDE Technical Guidance, the additional package data elements are: Package transaction spread (2.93); Package transaction spread currency (2.94); and Package transaction spread notation (2.95).

[242] In appendix 1, these data elements are: Day count convention (44); Fixing date (45); Floating rate reset frequency period (46); Floating rate reset frequency period multiplier (47); Other payment type (48); Other payment amount (49); Other payment currency (50); Other payment date (51); Other payment payer (52); Other payment receiver (53); Payment frequency period (54); and Payment frequency period multiplier (55).

[243] In appendix 1, these data elements are: Exchange rate (56); Exchange rate basis (57); Fixed rate (58); Post-priced swap indicator (59); Price (60); Price currency (61); Price notation (62); Price unit of measure (63); Spread (64); Spread currency (65); Spread notation (66); Strike price (67); Strike price currency/currency pair (68); Strike price notation (69); Option premium amount (70); Option premium currency (71); Option premium payment date (72); and First exercise date (73).

[244] The price schedule data elements in the CDE Technical Guidance are: 2.54.1 (Unadjusted effective date of the price); 2.54.2 (Unadjusted end date of the price); 2.54.3 (Price in effect between the unadjusted effective date and unadjusted end date inclusive); 2.63.1 (Unadjusted effective date of the strike price); 2.63.2 (Unadjusted end date of the strike price); and 2.63.3 (Strike price in effect between the unadjusted effective date and unadjusted end date inclusive).

[245] In appendix 1, these data elements are: CDS index attachment point (74); CDS index detachment point (75); Index factor (76); Embedded option type (77); and Unique product identifier (78).

[246] In appendix 1, these data elements are: Final contractual settlement date (79) and Settlement currency (80).

CDE Technical Guidance?[247] Please comment on alternative methods to report offshore currencies that are not included in ISO 4217 currency code list.

10. Category: Transaction-Related

The Commission is proposing to require reporting counterparties report fifteen data elements that provide information about each swap transaction.[248] The Commission believes this information is currently being reported to SDRs. Six of these data elements are consistent with the CDE Technical Guidance.

The Commission requests specific comment on the following transaction-related data elements:

(25) Should the Commission include the additional swap data elements related to transaction included in the CDE Technical Guidance? Are there additional transaction-related data elements the Commission should include beyond the CDE Technical Guidance?

(26) Should the Commission expand the Non-standardized term indicator (82) data element to apply to any non-standard term, regardless of impact on price? Should the Commission instead create a part 45-specific data element for non-standard terms that would not be publicly disseminated, and still have Non-standardized term indicator (82) for real-time public reporting?

(27) The Commission is considering including a data element called ''Trade execution requirement indicator'' to indicate whether a swap is subject to the Commission's trade execution mandate. The Commission requests specific comment on whether commenters believe this data element could be reported.

11. Category: Transfer

The Commission is proposing to require reporting counterparties to report one data element related to changing SDRs.[249] This data element would be necessary if the Commission adopts proposed § 45.10(d) permitting reporting counterparties to change the SDR to which they report data for a given swap. Without this data element, the Commission is concerned there would be swaps in the SDR that would appear open but not updated because the reporting counterparty reports to a different SDR.

12. Category: Valuation

The Commission is proposing to require reporting counterparties report six valuation data elements.[250] Nearly all of this information is currently being reported to SDRs. Four data elements are consistent with the CDE Technical Guidance. Valuation information is critical for, and currently used by, the Commission to monitor risk in the swaps market.

The Commission requests specific comment on the following related to the valuation data elements:

(28) The Commission is considering including the following valuation data elements that were not included in the CDE Technical Guidance: Discount index; discount index tenor period; discount index tenor period multiplier; next floating reference reset date; underlying spot or reference rate. Would reporting counterparties be able to report this information to SDRs each day? Could the Commission obtain this information from different source? Could the Commission require this information less frequently? Is reporting reset dates more efficient than reporting the full calendar generation logic (including business day calendars and reset lookback terms) of swaps?

(29) The CFTC intends to collect information to independently validate individual swap values (also known as ''mark-to-market'' or ''fair value''), portfolio aggregated values, and the value of collateral posted to meet initial and variation margin requirements. One method is to require parties to report the aggregate valuations of all financial instruments (including swaps and other cross margined products) associated with a Collateral Portfolio Code. What other validation and cross referencing information should the Commission collect in addition to the proposed data elements? Is there a more efficient way to collect data on the value of individual swaps, portfolios, and the margin posted and collected against these positions?

13. Category: Collateral and Margins

The Commission is proposing to require reporting counterparties report fourteen collateral and margins data elements.[251] This information is not currently being reported to SDRs. Twelve of these data elements are consistent with the CDE Technical Guidance. One data element, Affiliated counterparty for margin and capital indicator (103), will help the Commission monitor compliance with the uncleared margin requirements. The two remaining CFTC-specific data elements are indicators and codes that will help the Commission understand how the margin and collateral data is being reported by reporting counterparties. Margin and collateral information is critical for the Commission to monitor risk in the swaps market. When other jurisdictions implement the CDE Technical Guidance, sharing this information with other regulators will permit regulators to create a global picture of swaps risk.

The Commission requests specific comment on the following related to the collateral and margin data elements:

(30) The Commission is interested in determining the quality of collateral posted. Comparing pre- and post-haircut values is one way to gain this information. Should the Commission consider other ways, such as collecting specific information on the contents of the collateral portfolio?

(31) The proposed swap data elements allow for single collateral portfolio ID for both initial margin and variation margin. Should the Commission consider other approaches to collecting this information to account for when variation margin cash flows are separated between swaps that may not all be subject to initial margin?

(32) The Commission is proposing to collect new margin and collateral information from reporting counterparties that are SDs, MSPs, and DCOs. Some of this information could be reported at the portfolio level, rather than the transaction level. Do reporting counterparties or SDRs have feedback for the Commission on how portfolio level, as opposed to transaction level, reporting would work in practice? Are

[247] The settlement data element in the CDE Technical Guidance is 2.21 (Settlement location).

[248] In appendix 1, these data elements are: Allocation indicator (81); Non-standardized term indicator (82); Block trade election indicator (83); Effective date (84); Expiration date (85); Execution timestamp (86); Reporting timestamp (87); Platform identifier (88); Prime brokerage transaction identifier (89); Prime brokerage transaction indicator (90); Prior USI (for one-to-one and one-to-many relations between transactions) (91); Prior UTI (for one-to-one and one-to-many relations between transactions) (92); Unique swap identifier (USI) (93); Unique transaction identifier (UTI) (94); and Jurisdiction indicator (95).

[249] In appendix 1, this data element is: New SDR identifier (96).

[250] In appendix 1, these data elements are: Last floating reference value (97); Last floating reference reset date (98); Valuation amount (99); Valuation currency (100); Valuation method (101); and Valuation timestamp (102).

[251] In appendix 1, these data elements are: Affiliated counterparty for margin and capital indicator (103); Collateralisation category (104); Collateral portfolio code (105); Portfolio containing non-reportable component indicator (106); Initial margin posted by the reporting counterparty (post-haircut) (107); Initial margin posted by the reporting counterparty (pre-haircut) (108); Currency of initial margin posted (109); Initial margin collected by the reporting counterparty (post-haircut) (110); Initial margin collected by the reporting counterparty (pre-haircut) (111); Currency of initial margin collected (112); Variation margin posted by the reporting counterparty (pre-haircut) (113); Currency of variation margin posted (114); Variation margin collected by the reporting counterparty (pre-haircut) (115); and Currency of variation margin collected (116).

there challenges the Commission should consider? What are alternatives or solutions for collecting this information?

Request for Comment

The Commission additionally requests comment on all aspects of the proposed swap data elements in appendix 1. The Commission requests specific comment on the following:

(33) Are there any data elements not included in appendix 1 that commenters feel should be prioritized for standardization? Please explain why and provide relevant information that would assist with standardizing any suggested data elements.

(34) The Commission is not proposing data elements by leg for multi-leg products where some data elements are reported more than once per leg. The Commission thinks that it is best to leave the implementation details to market conventions and SDR requirements. Should the Commission consider another approach for leg-level reporting? If so, please provide details on the suggested approach.

(35) The Commission has not proposed any specific implementation requirement to report multiple values for the same data element when applicable. The Commission thinks that it is best to leave the implementation details to market conventions and SDR requirements. Should the Commission consider a set approach to report multiple values? If so, please provide details on the suggested approach.

(36) The Commission is considering requiring reporting counterparties to indicate whether a specific swap: (1) Was entered into for dealing purposes (as opposed to hedging, investing, or proprietary trading); and/or (2) need not be considered in determining whether a person is a swap dealer or need not be counted towards a person's de minimis threshold, as described in paragraph (4) of the ''swap dealer'' definition in § 1.3 of the Commission's regulations, pursuant to one of the exclusions or exceptions in the swap dealer definition (*e.g.,* the insured depository institution provision in paragraph (4)(C) or exclusion in paragraph (5) of the ''swap dealer'' definition in § 1.3, the inter-affiliate exclusion in paragraph (6)(i) of the ''swap dealer'' definition, etc.). In the past, the Commission staff has identified the lack of these data elements as limiting constraints on the usefulness of SDR data to identify which swaps should be counted towards a person's de minimis threshold, and the ability to precisely assess the current de minimis threshold or the impact of potential changes to current exclusions.[252] Given the Commission's ongoing surveillance for compliance with the swap dealer registration requirements, the Commission requests comment on this potential field.

VI. Compliance Date

Market participants raised questions in the Roadmap comment letters about the compliance schedules for the Commission's proposed reporting rules amendments. Commenters raised various concerns about the compliance schedule. For instance, the SDRs requested that system updates that would result from any rule changes happen all at once.[253] Others suggested phasing in any SDR obligations before requiring reporting counterparty changes.[254] Multiple market participants requested that the rulemakings take place simultaneously to inform one another.[255] Commenters also cautioned against artificial deadlines,[256] requested avoiding compliance dates at the end of the calendar year during holidays and code freezes,[257] and requested that the Commission consider deadlines for changes in foreign jurisdictions when setting compliance dates.[258]

The Commission understands that market participants will need a sufficient implementation period to accommodate any of the changes proposed in the three NPRMs that are adopted by the Commission. The Commission expects to finalize all rules at the same time, even though the proposals were approved separately. The Commission also expects that the compliance date for the Roadmap rules that the Commission adopts other than the rules on UTIs in § 45.5 would be one year from the date the final rulemakings are published in the **Federal Register**.

The Commission expects that the compliance date for the rules on UTIs in § 45.5 would be December 31, 2020, in accordance with the UTI implementation deadline recommended by the FSB.[259] As a participant in the international swaps data harmonization initiatives described in section 1.C above, the Commission fully supports the adoption of UTIs and its role in facilitating the aggregation of swaps data reported to SDRs. While the Commission recognizes that the expected compliance date of December 31, 2020 for § 45.5 will be sooner than the other changes proposed in the three NPRMs, the Commission believes that this earlier compliance date will not pose any substantial difficulties due to the limited nature of the proposed changes in § 45.5.[260]

The Commission requests comment on all aspects of the proposed compliance data. The Commission requests specific comment on the following:

(37) Part 20 of the Commission's regulations (''Large Trader Reporting for Physical Commodity Swaps'') contains a ''sunset provision'' in § 20.9 that would take effect upon ''a Commission finding that, through the issuance of an order, operating [SDRs] are processing positional data and that such processing will enable the Commission to effectively surveil trading in paired swaps and swaptions and paired swap and swaption markets.'' [261] The Commission can now analyze swap data from the SDRs for various purposes, such as re-evaluating the current swap categories and determine appropriate minimum block and cap sizes in part 43. In addition, the same physical commodity swaps reported to the Commission directly through part 20 reporting are being reported to SDRs under part 45. In conjunction with the Commission's proposals to update its swap reporting regulations, should the Commission review part 20 to determine whether it would be appropriate to sunset part 20 reporting according to the § 20.9?

VII. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities.[262] The Commission has

[252] *See* De Minimis Exception to the Swap Dealer Definition, 83 FR 27444, 27449 (proposed June 12, 2018); Swap Dealer De Minimis Exception Final Staff Report at 19 (Aug. 15, 2016) *available at https://www.cftc.gov/sites/default/files/idc/groups/public/@swaps/documents/file/dfreport_sddeminis081516.pdf;* Swap Dealer De Minimis Exception Preliminary Report at 15 (Nov. 18, 2015), *available at https://www.cftc.gov/sites/default/files/idc/groups/public/@swaps/documents/file/dfreport_sddeminis_1115.pdf.*

[253] Joint SDR Letter at 12.

[254] Letter from Chatham at 5–6; Joint NRECA–APPA Letter at 3.

[255] Joint SDR Letter at 1; Letter from GFXD of the GFMA at 5; Joint ISDA–SIFMA Letter at 2–3; Letter from LCH at 2.

[256] Letter from Chatham at 5.

[257] Joint SDR Letter at 12.

[258] *Id.*

[259] *See* Financial Stability Board, Governance Arrangements for the Unique Transaction Identifier (UTI), Conclusions and Implementation Plan (Dec. 2017), Section 5.2.

[260] The Commission recognizes commenters' concerns about end-of-year code freezes. The Commission encourages market participants to make the necessary code changes to comply with § 45.5 earlier than the end-of-year deadline.

[261] 17 CFR 20.9.

[262] *See* 5 U.S.C. 601 *et seq.*

previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on small entities in accordance with the RFA.[263] The amendments to parts 45, 46, and 49 proposed herein would have a direct effect on the operations of DCMs, DCOs, MSPs, reporting counterparties, SDs, SDRs, and SEFs. The Commission has previously certified that DCMs,[264] DCOs,[265] MSPs,[266] SDs,[267] SDRs,[268] and SEFs [269] are not small entities for purpose of the RFA.

Various proposed amendments to parts 45, 46, and 49 would have a direct impact on all reporting counterparties. These reporting counterparties may include SDs, MSPs, DCOs, and non-SD/MSP/DCO counterparties. Regarding whether non-SD/MSP/DCO reporting counterparties are small entities for RFA purposes, the Commission notes that CEA section 2(e) prohibits a person from entering into a swap unless the person is an eligible contract participant (''ECP''), except for swaps executed on or pursuant to the rules of a DCM.[270] The Commission has previously certified that ECPs are not small entities for purposes of the RFA.[271]

The Commission has analyzed swap data reported to each SDR [272] across all five asset classes to determine the number and identities of non-SD/MSP/DCOs that are reporting counterparties to swaps under the Commission's jurisdiction. A recent Commission staff review of swap data, including swaps executed on or pursuant to the rules of a DCM, identified nearly 1,600 non-SD/MSP/DCO reporting counterparties. Based on its review of publicly available data, the Commission believes that the overwhelming majority of these non-SD/MSP/DCO reporting counterparties are either ECPs or do not meet the definition of ''small entity'' established in the RFA. Accordingly, the Commission does not believe the proposed rule would affect a substantial number of small entities.

Based on the above analysis, the Commission does not believe that this proposal will have a significant economic impact on a substantial number of small entities. Therefore, the Chairman, on behalf of the Commission, pursuant to 5 U.S.C. 605(b), hereby certifies that the proposed rules will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act (''PRA'') [273] imposes certain requirements on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information, as defined by the PRA. This proposed rulemaking would result in the collection of information within the meaning of the PRA, as discussed below. The proposed rulemaking contains collections of information for which the Commission has previously received control numbers from the Office of Management and Budget (''OMB''): OMB Control Numbers 3038–0096 (relating to swap data recordkeeping and reporting); 3038–0089 (relating to pre-enactment swaps and transition swaps); and 3038–0086 (relating to SDRs).

The Commission is proposing to amend the above information collections to accommodate newly proposed and revised information collection requirements for swap market participants and SDRs that require approval from OMB under the PRA. The amendments described herein are expected to modify the existing annual burden for complying with certain requirements of parts 45 and 46. The Commission proposed amendments to the annual burden for complying with certain requirements of part 49 in the 2019 Part 49 NPRM. As discussed below, the Commission believes the estimates for the regulations in part 49 proposed to be amended in this NPRM accurately estimate the burdens and do not require updates based on what is proposed in this NPRM.

The Commission therefore is submitting this proposal to the OMB for its review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. Responses to this collection of information would be mandatory. The Commission will protect proprietary information according to the FOIA and 17 CFR 145, ''Commission Records and Information.'' In addition, CEA section 8(a)(1) strictly prohibits the Commission, unless specifically authorized by the CEA, from making public ''data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.'' [274] The Commission is also required to protect certain information contained in a government system of records according to the Privacy Act of 1974.[275]

1. Revisions to Collection 3038–0096 (Swap Data Recordkeeping and Reporting Requirements)

The Commission proposes to revise collection 3038–0096 to account for changes proposed to the requirements in part 45 for reporting swap data to SDRs. Most of the estimated hours burdens and costs provided below would be in addition to or subtracted from the existing hours burdens and costs in collection 3038–0096, with the exception that the proposed § 45.10(d) notification requirements for changing SDRs would be a new burden within collection 3038–0096. As discussed in this section as well, the Commission is also proposing to update and correct some estimates in collection 3038–0096.

a. Swap Creation Data Reporting Amendments

The Commission is proposing to amend § 45.3, which requires SEFs, DCMs, and reporting counterparties to report swap data to SDRs when entering into new swaps. Some of these amendments will result in changes to the burden calculations. As an initial matter, the Commission is proposing to correct the ''total annual burden hour cost of all responses'' in the supporting

[263] *See* Policy Statement and Establishment of ''Small Entities'' for purposes of the Regulatory Flexibility Act, 47 FR 18618 (Apr. 30, 1982).

[264] *See id.*

[265] *See* Derivatives Clearing Organization General Provisions and Core Principles, 76 FR 69334, 69428 (Nov. 8, 2011).

[266] *See* Swap Dealer and Major Swap Participant Recordkeeping, Reporting, and Duties Rules, 77 FR 20128, 20194 (Apr. 3, 2012) (basing determination in part on minimum capital requirements).

[267] *See* Swap Trading Relationship Documentation Requirements for Swap Dealers and Major Swap Participants 76 FR 6715 (Feb. 8, 2011).

[268] *See* Swap Data Repositories; Proposed Rule, 75 FR 80898, 80926 (Dec. 23, 2010) (basing determination in part on the central role of SDRs in swaps reporting regime, and on the financial resource obligations imposed on SDRs).

[269] Core Principles and Other Requirements for Swap Execution Facilities, 78 FR 33476, 33548 (June 4, 2013).

[270] *See* 7 U.S.C. 2(e).

[271] *See* Opting Out of Segregation, 66 FR 20740, 20743 (Apr. 25, 2001). The Commission also notes that this determination was based on the definition of ECP as provided in the Commodity Futures Modernization Act of 2000. The Dodd-Frank Act amended the definition of ECP as to the threshold for individuals to qualify as ECPs, changing ''an individual who has total assets in an amount in excess of'' to ''an individual who has amounts invested on a discretionary basis, the aggregate of which is in excess of . . . .'' Therefore, the threshold for ECP status is currently higher than was in place when the Commission certified that ECPs are not small entities for RFA purposes, meaning that there are likely fewer entities that could qualify as ECPs than when the Commission first made the determination.

[272] The sample data sets varied across SDRs and asset classes based on relative trade volumes. The sample represents data available to the Commission for swaps executed over a period of one month. These sample data sets captured 2,551,907 FX swaps, 98,145 credit swaps, 357,851 commodities swaps, 603,864 equities swaps, and 276,052 interest rate swaps.

[273] *See* 44 U.S.C. 3501.

[274] 7 U.S.C. 12(a)(1).

[275] 5 U.S.C. 552a.

statement from $7,248 (which was the total average hour burden cost per respondent) to $12,553,536.

The Commission estimates that SDRs, SEFs, DCMs, and reporting counterparties would incur a one-time initial burden of 10 hours per entity to modify their systems to adopt the changes described below, for a total estimated hours burden of 17,320 hours. This burden should be mitigated by the fact that these entities currently have systems in place to provide this information to the Commission. The Commission additionally estimates 5 hours per entity annually to perform any needed maintenance or adjustments to reporting systems.

Currently, § 45.3 requires SEFs, DCMs, and reporting counterparties to report confirmation data reports and PET data reports when entering into new swaps. The Commission is proposing to remove the requirement for SEFs, DCMs, and reporting counterparties to report confirmation data reports. These entities would report a single swap creation data report instead of separate PET data reports and confirmation data reports. As described above in section II.C.a, the Commission anticipates removing this requirement will reduce the number of swap creation data reports being sent to SDRs. Commission staff estimates that across the range of entities, the change could result in a 30% reduction in the number of swap creation data reports being sent to SDRs.

This change would not decrease the hourly burden, but would decrease the number of reports from 10,000 reports per 1,732 respondents to 7,000 reports per respondent, or a reduction of 5,196,000 reports in the aggregate.

The Commission is also proposing to remove the requirement for SEFs, DCMs, and reporting counterparties to report TR identifiers and swap identifiers for international swaps. This proposed amendment would remove the requirement to report two pieces of information within a required swap creation data report, without impacting the number of reports themselves. The requirement to report swap identifiers is duplicative, and would not change the burden estimate, as SEFs, DCMs, and reporting counterparties are required to report swap identifiers for all swap pursuant to § 45.5. However, the removal of the requirement to report TR identifiers would slightly reduce the amount of time required to make each report, as SEFs, DCMs, and reporting counterparties would not need to report this information anymore. Therefore, the Commission estimates the removal of this requirement would lower the burden hours by .01 hour per report.

However, at the same time, the Commission is proposing to require the reporting of UTIs instead of USIs, which are currently being reported in every required swap creation data report. As described below in the section discussing amendments to § 45.5, as this information is reported in required swap creation data reports, the Commission estimates the new rules requiring SEFs, DCMs, SDRs, and reporting counterparties to change from reporting USIs to UTIs would impact the burden calculations for § 45.3 by increasing the burden hours by .01 hour per report. As a result, the Commission estimates there will be no change to the burden hours for § 45.3 required swap creation data reporting.

The new aggregate proposed estimate for § 45.3, as amended by the proposal is as follows:

Estimated number of respondents: 1,732.

Estimated number of reports per respondent: 7,000.

Average number of hours per report: .01.

Estimated gross annual reporting burden: 121,240.

b. Swap Continuation Data Reporting Amendments

The Commission is proposing to amend § 45.4, which requires reporting counterparties to report data to SDRs when swap terms change and daily swap valuation data. As an initial matter, the Commission is proposing to correct the estimated number of respondents in the supporting statement from 1,732 to 1,705, to reflect the fact that SEFs and DCMs do not report required swap continuation data under § 45.4.

The Commission estimates that SDRs and reporting counterparties would incur a one-time initial burden of 10 hours per entity to modify their systems to adopt the changes described below, for a total estimated hours burden of 17,050 hours. This burden should be mitigated by the fact that these entities currently have systems in place to provide this information to the Commission. The Commission additionally estimates 5 hours per entity annually to perform any needed maintenance or adjustments to reporting systems.

Currently, § 45.4 permits reporting counterparties to report changes to swap terms when they occur (life cycle reporting), or to provide a daily report of all of the swap terms (state data reporting). The Commission is proposing to remove the option for state data reporting. Reporting counterparties would report data to SDRs only when swap terms change. As discussed above in section II.D, the Commission believes this would significantly reduce the number of required swap continuation data reports being sent to SDRs. Commission staff estimates that across asset class for each respondent, the number of reports would decrease by approximately 50%, reducing the number of reports from 207,543 reports per respondent to 103,772 reports per respondent, and a decrease of 176,930,408 reports in the aggregate.

Currently, § 45.4 requires SD/MSP/DCO reporting counterparties to report valuation data for swaps daily, and non-SD/MSP/DCO reporting counterparties to report valuation data quarterly. The Commission is proposing to remove the requirement for non-SD/MSP/DCO reporting counterparties to report quarterly valuation data. For the 1,585 non-SD/MSP/DCO reporting counterparties, the Commission believes this change would further reduce the number of required swap continuation data reports being sent by 4 quarterly reports per 1,585 non-SD/MSP/DCO reporting counterparties, from 107,772 reports per respondent to 97,431 reports per respondent, and a decrease of 6,340 reports in the aggregate.

Separately, the Commission is proposing to expand the daily valuation data reporting requirement for SD/MSP/DCO reporting counterparties to report margin and collateral data in addition to valuation data. The frequency of the report would not change, but the Commission expects SD/MSP/DCO reporting counterparties would require more time to prepare each report. However, since all of this information is reported electronically, the Commission expects the increase per report to be small. The burden associated with these changes is anticipated to result in an increase from .003 to .004 hours per report, or 166,119 hours in the aggregate.

The estimated aggregate burden for swap continuation data, as amended by the proposal is as follows:

Estimated number of respondents: 1,705.

Estimated number of reports per respondent: 97,431.

Average number of hours per report: .004.

Estimated gross annual reporting burden: 664,479.

c. Unique Swap Identifiers

The Commission is proposing to amend § 45.5, which requires SEFs, DCMs, reporting counterparties, and SDRs to generate and transmit USIs. As

an initial matter, the Commission is proposing to correct the estimated number of respondents and the estimated number of reports per each respondent. Currently, SDRs, SDs, MSPs, SEFs, and DCMs are required to generate USIs, but the Commission inadvertently had included the 1,585 non-SD/MSP/DCO reporting counterparties. The Commission is proposing to therefore update the number or respondents to 147 SDs, MSPs, SEFs, DCMs, DCOs, and SDRs. However, these entities generate USIs on behalf of non-SD/MSP/DCO reporting counterparties for all swaps, so the estimated number of reports per each respondents would increase to 115,646 reports per 147 respondents to account for the 17,000,000 new swaps reported each year with USIs.

The Commission estimates that SDRs and reporting counterparties required to generate UTIs would incur a one-time initial burden of 1 hour per entity to modify their systems to adopt the changes described below, for a total estimated hours burden of 940 hours. This burden should be mitigated by the fact that these entities currently have systems in place to provide this information to the Commission, and UTIs are, in most cases, less burdensome to generate than USIs. The Commission additionally estimates 1 hour per entity annually to perform any needed maintenance or adjustments to reporting systems.

Currently, § 45.5 requires SDRs to generate and transmit USIs for off-facility swaps with a non-SD/MSP reporting counterparty. The Commission is proposing to amend § 45.5 to require non-SD/MSP/DCO reporting counterparties that are financial entities to generate and transmit UTIs for off-facility swaps. The Commission estimates that approximately half of non-SD/MSP/DCO reporting counterparties are financial entities. Therefore, the Commission estimates that the number of respondents would increase from 147 SDs, MSPs, SEFs, DCMs, DCOs, and SDRs to 940 with the addition of financial entities.

At the same time, however, this would lower the number of UTIs generated per respondent to account for the increase in the number of respondents generating UTIs. The Commission estimates the estimated number of reports per respondent would decrease from 115,646 reports from 147 respondents to 18,085 reports from 940 respondents.

The estimated aggregate burden for unique transaction identifiers, as amended by the proposal is as follows:

Estimated number of respondents: 940.

Estimated number of reports per respondent: 18,085.

Average number of hours per report: .01.

Estimated gross annual reporting burden: 169,999.

d. Legal Entity Identifier Amendments

The Commission is proposing to amend § 45.6, which requires reporting entities to have LEIs. As an initial matter, the Commission is proposing to revise the burden estimate for § 45.6. LEIs are reported in required swap creation data and required swap continuation data reports, which are separately accounted for in the estimates for §§ 45.3 and 45.4. The current estimate for § 45.6 double-counts the estimates for §§ 45.3 and 45.4 by calculating the burden per data report. Instead, the burden for § 45.6 should be based on the requirement for each counterparty to obtain an LEI. The Commission is proposing to revise the estimate to state that there are 1,732 entities required to have one LEI per respondent, and revise the burden hours based on this change.[276]

Currently, § 45.6 requires all entities to have LEIs. The Commission is proposing to amend § 45.6 to require SDs, MSPs, SEFs, DCMs, DCOs, and SDRs to renew their LEIs annually. The proposed change would increase the hour burden for these entities, but would not affect the burden for the majority of entities required to have LEIs. Nonetheless, the Commission expects the burden associated with these changes is anticipated to result in an increase from .01 to .02 hours per report, and 17 hours in the aggregate.

The estimated aggregate burden for LEIs, as amended by the proposal is as follows:

Estimated number of respondents: 1,732.

Estimated number of reports per respondent: 1.

Average number of hours per report: .02.

Estimated gross annual reporting burden: 35.

e. New Notifications for Changing SDRs

The Commission is proposing amendments to § 49.10(d) to require reporting counterparties to notify SDRs and non-reporting counterparties if they change the SDR to which they report swap data and swap transaction and pricing data. This is a new burden that is not covered in the collection. Reporting counterparties would be required to send notifications to non-reporting counterparties and SDRs if they elect to change the SDR to which they report data pursuant to parts 43 and 45.

The Commission believes this would not require reporting counterparties or SDRs to build any new systems or update technology. Reporting counterparties would continue to report, and SDRs would continue to accept, swap data according to current processes and infrastructures. The Commission estimates that no more than 15 reporting counterparties would choose to change the SDR to which they report data.

The burden applicable to reporting counterparties is estimated as follows:

Estimated number of respondents: 15.

Estimated number of reports per respondent: 1.

Average number of hours per report: .01.

Estimated gross annual reporting burden: .15.

2. Revisions to Collection 3038–0086 (Swap Data Access Provisions of Part 49 and Certain Other Matters)

a. SDR Withdrawal From Registration Amendments

The Commission is proposing to amend § 49.4, which requires SDRs to follow certain requirements when withdrawing from registration with the Commission. These requirements involve filing paperwork with the Commission. The Commission does not believe these changes would require any one-time or ongoing system updates for SDRs.

Currently, § 49.4 requires that a request to withdraw specify, among other items, a statement that the custodial SDR is authorized to make such data and records available in accordance with § 1.44 of the Commission's regulations. The Commission is proposing to remove this requirement from § 49.4 because § 1.44 does not apply to SDRs or swap data. Currently, § 49.4(a)(2) requires that prior to filing a request to withdraw, a registered SDR shall file an amended Form SDR to update any inaccurate information. The proposal would eliminate the requirement for SDRs to file an amended Form SDR prior to filing a request to withdraw. The burden associated with these changes to the

[276] The Commission is similarly revising the estimate for § 45.7, which requires reporting counterparties to use UPIs. Until the Commission designates a UPI, reporting counterparties use the product fields unique to each SDR. As a result, until the Commission designates a UPI, the burden estimates for the product fields are accounted for in §§ 45.3 and 45.4. To avoid double-counting until there is a UPI, the Commission is proposing to remove the burden estimate for § 45.7 until the Commission designates a UPI.

paperwork requirements for an SDR withdrawing from registration would result in a decrease of 5 hours per report.

However, separately, the Commission is proposing amendments to § 49.4(a)(2) to require SDRs to execute an agreement with the custodial SDR governing the custody of the withdrawing SDR's data and records prior to filing a request to withdraw with the Commission. The Commission believes this is current practice for SDRs, yet it would nonetheless be a new requirement. As a result, the Commission believes this would result in an increase of 5 hours per report for a withdrawing SDR.

Overall, the proposed amendments to § 49.4 result in no change to the estimated burdens for § 49.4.

The estimated aggregate burden for requirements for withdrawing from SDR registration, remains as follows:

Estimated number of respondents: 1.

Estimated number of reports per respondent: 1.

Average number of hours per report: 40.

Estimated gross annual reporting burden: 40.

b. SDR Data Validation Requirement Amendments

The Commission is proposing to amend § 49.10, which provides the requirements for SDRs in accepting SDR Data. As an initial matter, the Commission notes that the burden estimate for § 49.10 already accounts for the messages SDRs send and receive in accepting swap data.

The Commission estimates that SDRs would incur a one-time initial burden of 100 hours per entity to modify their systems to adopt the changes described below, for a total estimated hours burden of 300 hours. This burden should be mitigated by the fact that these entities currently have systems in place to validate data that each SDR takes in. The Commission additionally estimates 100 hours per entity annually to perform any needed maintenance or adjustments to reporting systems.

Currently, § 49.10(a) requires SDRs to accept and promptly record all swap data. In the 2019 Part 49 NPRM, the Commission proposed amending the requirements in § 49.10 by detailing separate § 49.10(e) requirements for correcting swap errors. In this release, the Commission is proposing separate § 49.10(c) requirements for validating swap messages. This proposal would further specify that SDRs must send validation acceptance and rejection messages after validating SDR data. The Commission believes this would increase the number of reports SDRs would need to send reporting entities. The current burden estimate for § 49.10, which right now includes § 49.10(a), estimates each SDR sends 5,652,000 messages, for a total of almost 17,000,000. This estimate includes the 2,626,000 messages the Commission estimates SDRs would be required to send to process swap corrections. The Commission believes this burden was estimated correctly in the 2019 Part 49 NPRM and already accurately accounts for the validation messages proposed in § 49.10(c).

The estimated aggregate burden for requirements for validating SDR Data, remains as follows:

Estimated number of respondents: 3.

Estimated number of reports per respondent: 5,652,000.

Average number of hours per report: .00055.

Estimated gross annual reporting burden: 9,750.

3. Revisions to Collection 3038–0089 (Pre-Enactment Swaps and Transition Swaps)

Current § 46.11 provides that for pre-enactment or transition swaps for which part 46 requires reporting of continuation data, reporting counterparties reporting state data as provided in part 45 may fulfill the requirement to report errors or omissions by making appropriate corrections in their next daily report of state data pursuant to part 45. Since the Commission is proposing to remove this requirement from § 45.4, the Commission is also proposing to remove the option for state data reporting from § 46.11.

The Commission does not believe this proposed amendment would require any system updates by SDRs or reporting counterparties. To the extent they did, these updates would be covered under the estimates above for entities making updates to comply with the change proposed in § 45.4.

The Commission believes the proposed change would reduce the number of continuation data reports reporting counterparties send SDRs for historical swaps by 50%. The Commission has not previously calculated the burden estimates for part 46 by regulatory requirement. As such, the Commission now estimates that to comply with proposed amended § 46.11, the 500 SD, MSP, and non-SD/MSP reporting counterparties that the Commission estimates are reporting historical swaps would each report 200 reports with an average burden of .01 hours per report, for a burden of 2 hours per respondent or 1,000 burden hours in the aggregate.

The estimated aggregate burden for requirements for reporting continuation data for historical swaps would be as follows:

Estimated number of respondents: 500.

Estimated number of reports per respondent: 200.

Average number of hours per report: .01.

Estimated gross annual reporting burden: 1,000.

Request for Comment

The Commission invites the public and other Federal agencies to comment on any aspect of the proposed information collection requirements discussed above. The Commission will consider public comments on this proposed collection of information in:

1. Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

2. Evaluating the accuracy of the estimated burden of the proposed collection of information, including the degree to which the methodology and the assumptions that the Commission employed were valid;

3. Enhancing the quality, utility, and clarity of the information proposed to be collected; and

4. Minimizing the burden of the proposed information collection requirements on registered entities, including through the use of appropriate automated, electronic, mechanical, or other technological information collection techniques, *e.g.,* permitting electronic submission of responses.

Copies of the submission from the Commission to OMB are available from the CFTC Clearance Officer, 1155 21st Street NW, Washington, DC 20581, (202) 418–5160 or from *http://RegInfo.gov.* Organizations and individuals desiring to submit comments on the proposed information collection requirements should send those comments to:

- The Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Desk Officer of the Commodity Futures Trading Commission;
- (202) 395–6566 (fax); or
- *OIRAsubmissions@omb.eop.gov* (email).

Please provide the Commission with a copy of submitted comments so that all comments can be summarized and addressed in the final rulemaking, and please refer to the **ADDRESSES** section of this rulemaking for instructions on

submitting comments to the Commission. OMB is required to make a decision concerning the proposed information collection requirements between 30 and 60 days after publication of this Release in the **Federal Register**. Therefore, a comment to OMB is best assured of receiving full consideration if OMB receives it within 30 calendar days of publication of this Release. Nothing in the foregoing affects the deadline enumerated above for public comment to the Commission on the proposed rules.

C. Cost-Benefit Considerations

1. Introduction

Since issuing the first swap reporting rules in 2012, the Commission has gained a significant amount of experience with swaps markets and products based on studying and monitoring data reported to SDRs.[277] As a result of this work, the Commission has also identified areas for improvement in the current swap data reporting rules. Current limitations with the regulations have, in some cases, encouraged the reporting of swap data in a way that has made it difficult for the Commission to aggregate and analyze. As a result, the Commission is proposing a number of rule amendments intended to improve data quality and standardization to achieve the G20 goal for trade reporting to improve transparency, mitigate systemic risk, and prevent market abuse.[278]

While the Commission believes the proposed amendments would create meaningful benefits for market participants, SDRs, and the public, these changes could also result in costs. Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders.[279] Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) the efficiency, competitiveness and financial integrity of markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations.[280] The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors.

In this release, the Commission is proposing revisions to existing regulations in parts 45, 46, and 49. The Commission also is proposing new requirements in parts 45, 46, and 49. Together, these proposed revisions and additions are intended to further specify and streamline swap data reporting workflows and to improve the quality of data reporting generally. It is important to note that most of these regulatory changes are being made to existing systems and processes, therefore nearly all costs considered are incremental additions or updates to systems already in place. Some of the proposed amendments are substantive. A number of amendments, however, are non-substantive or technical, and therefore are not expected to have material cost-benefits implications.[281]

The changes proposed in this release that would result in costs to implement are in many cases intended to harmonize the Commission's reporting regulations with those of other regulators where doing so will not impact the Commission's ability to fulfill its regulatory mandates. As the FSB and CPMI–IOSCO harmonization efforts have incorporated many rounds of industry feedback and the Commission has been vocal about its support and participation,[282] the Commission expects that many market participants have, to the extent possible, been planning and preparing for system updates to accommodate these important changes in the most efficient, cost-effective manner.

The Commission notes that many jurisdictions have committed to these harmonization efforts for which the Commission is proposing adopting standards in this NPRM. If the Commission did not adopt these standards, but other jurisdictions do according to the implementation deadlines recommended by the FSB, unnecessary costs could be created by SDRs and reporting entities having to maintain unharmonized reporting infrastructures for CFTC reporting while other jurisdictions harmonize and recognize efficiencies from harmonization.

To the extent costs and benefits are reasonably quantifiable, they are discussed below in this section; where they are not, they are discussed qualitatively. Throughout this release, the Commission has used the swap data currently available to estimate the expected quantifiable cost-benefit impact of proposed changes on certain types of registrants, such as the extent of state data reporting and duplicative creation data reports. Most of the changes proposed in this release alter reporting requirements for reporting counterparties, SDRs, SEFs, and DCMs. As a result, there will likely be some quantifiable costs related to either: (a) Creating new data reporting systems; (b) re-programming data reporting systems to meet the new reporting requirements; or (c) cancelling data streams, which might lead to archiving data and maintaining legacy systems.

These costs are quantifiable to the extent reporting entities covered by the proposed regulations are able to price-out the changes to the IT architecture to meet the reporting requirement changes. These quantifiable costs, however, will likely vary because reporting entities vary in terms of the sophistication of their data reporting systems. For example, some reporting entities operate their own data reporting systems where they employ in-house developers and analysts to plan, design, code, test, establish, and monitor systems. Other reporting entities pay fees to third-party vendors who handle reporting obligations. Because reporting systems differ, the Commission recognizes that the quantitative costs associated with these proposed reporting rules in this release will vary depending on the reporting entities' operations and number of swaps that they execute.

Given this understanding, the Commission has tried to provide a monetary range for quantifiable costs as they relate to each proposed reporting change discussed below. The Commission also specifically requests comments to help quantify the costs of changes to reporting systems and infrastructures that would be required to comply with the regulatory changes proposed in this rulemaking.

This consideration of costs and benefits is based on the understanding that the swaps market functions internationally. Many swaps transactions involving U.S. firms occur across international borders, and some Commission registrants are organized

[277] The Commission has used swap data in various rulemakings, research, and reports. *See, e.g.,* ''Introducing ENNS: A Measure of the Size of Interest Rate Swap Markets,'' Haynes R., Roberts J. Sharma R., and Tuckman B., January 2018; CFTC Weekly Swaps Report, *available at www.cftc.gov/MarketReports/SwapsReports/index.htm.*

[278] *See https://www.treasury.gov/resource-center/international/g7-g20/Documents/pittsburgh_summit_leaders_statement_250909.pdf.*

[279] 7 U.S.C. 19(a)(1).

[280] 7 U.S.C. 19(a)(2).

[281] The Commission believes there are no cost-benefit implications for amendments proposed to §§ 45.1, 45.2, 45.7, 45.8, 45.9, 45.11, 45.15, 46.1, 46.2, 46.4, 46.5, 46.8, 46.9, and 49.2.

[282] *See, e.g., https://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo50* (''I believe the CFTC needs to be a leading participant in IOSCO and other international bodies. The CFTC currently chairs the following international committees and groups and serves as a member of many other ones: . . . Co-Chair, CPMI–IOSCO Data Harmonization Group[, and] Co-Chair, FSB Working Group on UTI and UPI Governance'').

outside of the U.S., including many SDs. Many of the largest market entities often conduct operations both within and outside the U.S. Where the Commission does not specifically refer to matters of location, the discussion of costs and benefits refers to the proposed rules' effects on all swaps activity, whether by virtue of the activity's physical location in the U.S. or by virtue of the activity's connection with or effect on U.S. commerce under CEA section 2(i).[283]

2. Background

The Commission has issued several rulemakings related to swaps reporting and, in those, considered the benefits and costs.[284] Among others, the Commission has generally identified benefits such as increased transparency to both the marketplace and to regulators; improved regulatory understanding of risk distributions and concentrations in derivatives markets; more effective monitoring of risk profiles by regulators and regulated entities through the use of unique identifiers; improved regulatory oversight, and more robust data management systems.[285] The Commission also identified two main areas where costs may be incurred: Recordkeeping and reporting.[286]

Since establishing swap data reporting requirements, the Commission gained experience with swap data reported to, and held by, SDRs. Based on this experience, along with extensive feedback received from market participants, the Commission believes that improving data quality would significantly enhance the data's usefulness, allow the Commission to realize the objectives of the original rule (*e.g.,* market risk monitoring in furtherance of the G20 commitments discussed above), but also reduce the burden on reporting entities and SDRs through harmonizing, streamlining and clarifying data requirements. In this release, the Commission has focused on the swap data reporting workflows, the swap data elements reporting counterparties report to SDRs, and the validations SDRs apply to help ensure the swap data they receive is accurate. The Commission is also proposing to modify a number of other regulations for clarity and consistency.

Prior to discussing the proposed rule changes, the Commission describes below the current environment that would be impacted by these changes. Three SDRs are currently provisionally registered with the Commission: CME, DDR, and ICE. The changes proposed should apply equally to all three SDRs.

The current reporting environment also involves third-party service providers. These entities assist market participants with fulfilling the applicable data reporting requirements, though the reporting requirements do not apply to third-party service providers directly. From looking at current data, the Commission estimates that third-party service providers do not account for a large portion of the overall record submissions to SDRs, but provide an important service for firms that choose to outsource their reporting needs.

Finally, the current reporting environment depends on reporting counterparties that report swap data to SDRs. The Commission currently estimates reporting counterparties include 107 provisionally-registered SDs, 24 SEFs, 3 DCMs, 14 DCOs, and 1,585 non-SD/MSP/DCO reporting counterparties. There is considerable variation within each of these reporting counterparty types as to size and swaps market activity. The Commission understands that most SDs and nearly all SEFs, DCMs, DCOs, and SDRs have sophisticated technology dedicated to data reporting because of the frequency with which they either enter into or facilitate the execution of swaps, or accept swap data from reporting entities. The Commission also believes that these entities have greater access to resources to update these systems as regulatory requirements change. Further, the Commission's data analysis implies that much of the cost and benefit of the proposed changes will be incurred by SDs—the most sophisticated participants in the market with the most experience reporting under the E.U. and U.S. reporting regimes—that accounted for over 70% of records submitted to SDRs in December 2019.[287]

As to non-SD/MSP/DCO reporting counterparties—a category accounting for a small fraction of SDR reports—the Commission believes there is wide variation in the reporting systems maintained by and resources available to them. Many of these reporting counterparties are large, sophisticated financial entities, including banks, hedge funds, and asset management firms that the Commission believes have devoted resources and systems similar to those available to SDs, SEFs, DCMs, DCOs, and SDRs. However, the Commission recognizes that a significant number of these reporting counterparties are smaller, less-sophisticated swap end-users entering into swaps less frequently to hedge commercial risk.

For these entities, for which the Commission has a significant interest in ensuring access to the U.S. swaps market without unnecessary costs or burdens, the Commission has difficulty accurately estimating the cost impact of the changes to its regulations proposed in this NPRM. The challenge stems from the wide range of complexity firms in this group face in their reporting burdens—a large asset manager with billions of dollars in assets under management and a large swaps portfolio could have a reporting system as complex and sophisticated as an SD while a small hedge fund with a limited swaps portfolio might rely on third-party providers to handle its reporting obligations.

As discussed in the Roadmap, the Commission is in the process of improving data reporting requirements, including modifying the requirements to be more specific and more consistent with other regulators' requirements. The amendments proposed in this rulemaking are one part of this larger effort to ensure that better-quality data is available to market participants and the Commission.

Current regulations have led to swap data reports that do not fully meet the Commission's needs for data quality. For example, the current appendix to part 45 provides no standards, formats, or allowable values for the swap data

[283] *See* 7 U.S.C. 2(i). CEA section 2(i) limits the applicability of the CEA provisions enacted by the Dodd-Frank Act, and Commission regulations promulgated under those provisions, to activities within the U.S., unless the activities have a direct and significant connection with activities in, or effect on, commerce of the U.S.; or contravene such rules or regulations as the Commission may prescribe or promulgate as are necessary or appropriate to prevent the evasion of any provision of the CEA enacted by the Dodd-Frank Act. Application of section 2(i)(1) to the existing regulations under part 45 with respect to SDs/MSPs and non-SD/MSP counterparties is discussed in the Commission's Interpretive Guidance and Policy Statement Regarding Compliance With Certain Swap Regulations, 78 FR 45292 (July 26, 2013).

[284] In 2021, the Commission provided a detailed cost-benefit discussion on its final swap reporting rules to ensure that market participants reported cleared and uncleared swaps to SDRs. *See* 77 FR at 2176–2193. In 2012, the Commission also issued final rules for reporting pre-enactment and transition swaps. *See generally* Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps, 77 FR 35200 (June 12, 2012). In 2016, the Commission amended its regulations to clarify the reporting obligations for DCOs and swap counterparties with respect to cleared swaps. *See generally* Amendments to Swap Data Recordkeeping and Reporting Requirements for Cleared Swaps, 81 FR 41736 (June 27, 2016).

[285] *See, e.g.,* 77 FR at 2176–2193; 77 FR at 35217–35225; 81 FR at 41758–41770.

[286] *See, e.g., id.*

[287] Analyzing SDR data from December 2019, CFTC staff found over 70% of all records submitted to the SDRs came from SDs. Between 15% and 20% came from DCOs, 4% came from SEFs, and the remaining came from non-SD reporting counterparties.

that reporting counterparties report to SDRs and there is no technical specification or other guidance associated with the current rule. Since the industry has not identified a standard for all market participants to use, market participants have reported information in many different ways, often creating difficulties in data harmonization, or even identification, within and across SDRs.

It is not uncommon for Commission staff to find discrepancies between open swaps information available to the Commission and swap transaction data reported for the same swaps. In the processing of swap data to generate the CFTC's Weekly Swaps Report,[288] for example, there are instances when the notional amount differs between the Commission's open swaps information and the swap transaction data reported for the same swap. While infrequent errors can be expected, the wide variation in standards among SDRs has increased the challenge of swap data analysis and often has required significant data cleaning and data validation prior to any data analysis effort. This has meant that the Commission has, in some but not all cases, determined that certain data analyses were not feasible, harming its ability to oversee market activity.

In addition to the lack of standardization across SDRs, the Commission is concerned that the current timeframes for reporting swap data may have contributed to the prevalence of errors. Common examples of errors include incorrect references to underlying currencies, such as a notional value incorrectly linked to U.S. dollars instead of Japanese Yen. Among others, these examples strongly suggest a need for standardized, validated swap data as well as additional time to review the accuracy of the data report.

Based on its experience with data reporting, the Commission believes that certain regulations, particularly in parts 45, 46, and 49, should be amended to improve swap data accuracy and completeness. This release also includes one amendment to part 49 to improve the process for an SDR's withdrawal from registration. Many of the proposed regulations have costs and benefits that must be considered. These will be discussed individually below.

For each proposed amendment discussed below, the Commission summarizes the changes,[289] and identifies and discusses the costs and benefits attributable to the proposed changes. Since many of the changes require technical updates to reporting systems, where significant, CFTC staff estimated the hourly wages market participants will likely pay software developers to implement each change to be between $47 and $100 per hour.[290] Relevant amendments below will list a low-to-high range of potential cost as determined by the number of developer hours estimated by technical subject matter experts (''SMEs'') in the Commission's Office of Data and Technology; amendments where this type of cost estimate is not relevant will not. Finally, the Commission considers the costs and benefits of all of the proposed rules jointly in light of the five public interest considerations in CEA section 15(a).

3. Baselines

There are multiple baselines for the costs and benefits that might arise from the proposed regulations in this release. The Commission believes that the baseline for the proposed amendments to §§ 45.3, 45.4, 45.5, 45.6, 45.10, 45.12, 45.13, 46.3, 46.10, 46.11, and 49.4 are the current regulations, as discussed above in sections II, III, and IV. The baseline for proposed § 49.10 is current practice, which is that SDRs may be performing validations according to their own specifications, as discussed above in section IV.C.

4. Costs and Benefits of Proposed Amendments to Part 45

a. § 45.3—Swap Data Reporting: Creation Data

The Commission is proposing to amend § 45.3 to: (i) Remove the requirement for SEFs, DCMs, and reporting counterparties to report separate PET and confirmation data reports; (ii) extend the deadline for reporting required swap creation data and allocations to T+1 or T+2, depending on the reporting counterparty; (iii) remove the requirement for SDRs to map allocations; and (iv) remove the international swap reporting requirements.

The Commission believes: (i) Reporting a single required creation data report would reduce complexity for reporting counterparties, as well as for the Commission; (ii) extending the deadline to report required swap creation data and allocations would improve data quality without impacting the Commission's ability to perform its regulatory responsibilities; (iii) the requirements for SDRs to map allocations and the international swap requirements are unnecessary.

(A) Costs and Benefits

Requiring a single confirmation data report for SEFs, DCMs, and reporting counterparties would benefit SDRs, SEFs, DCMs, and reporting counterparties by reducing the number of swap data reports being sent to and stored by SDRs. Extending the deadline to report required swap creation data would benefit SDRs, SEFs, DCMs, and reporting counterparties by giving SEFs, DCMs, and reporting counterparties more time to report swap data to SDRs, likely reducing the number of errors SDRs would need to follow-up on with reporting entities. Since reporting data ASATP requires reporting systems to monitor activity and report in real-time, the proposed time will also benefit SDRs, SEFs, DCMs, and reporting counterparties by allowing them to implement a simpler data reporting workflow that assembles and submits data once per day.

Removing the requirements to map allocations and international swaps would benefit SDRs by removing the need to manage separate processes to maintain this information. In addition, SEFs, DCMs, and reporting counterparties would benefit from reporting allocations directly via swap data reporting, and would no longer have to report information about international swaps that would be

[288] *See* CFTC's Weekly Swaps Report, *available at https://www.cftc.gov/MarketReports/SwapsReports/index.htm.*

[289] As described throughout this release, the Commission is also proposing a number of non-substantive, conforming rule amendments in this release, such as renumbering certain provisions and modifying the wording of existing provisions. Non-substantive amendments of this nature may be described in the cost-benefit portion of this release, but the Commission will note that there are no costs or benefits to consider.

[290] Hourly wage rates came from the Software Developers and Programmers category of the May 2018 National Occupational Employment and Wage Estimates Report produced by the U.S. Bureau of Labor Statistics, *available at https://www.bls.gov/oes/current/oes_nat.htm.* The 25th percentile was used for the low range and the 90th percentile was used for the upper range ($36.07 and $76.78, respectively). Each number was multiplied by an adjustment factor of 1.3 for overhead and benefits (rounded to the nearest whole dollar) which is in line with adjustment factors the CFTC has used for similar purposes in other final rules adopted under the Dodd-Frank Act. *See, e.g.,* 77 FR at 2173 (using an adjustment factor of 1.3 for overhead and other benefits). These estimates are intended to capture and reflect U.S. developer hourly rates market participants are likely to pay when complying with the proposed changes. We recognize that individual entities may, based on their circumstances, incur costs substantially greater or less than the estimated averages and encourage commenters to share relevant cost information if it differs from the numbers reported here.

rendered unnecessary given the UTI standards.

The initial cost of updating systems to adopt the changes proposed in § 45.3, as well as reporting-related changes that will be discussed below, are expected to be small. The Commission expects that many SEFs, DCMs, and reporting counterparties have systems designed to report swap data to SDRs ASATP after execution, as well as systems that report separate PET and confirmation swap reports as well as information about international swaps. SDRs likewise have systems to accept both PET and confirmation swap data reports, possibly separate or combined, as well as systems to map allocations and intake information about international swaps.

In both cases, this is a reduction in complexity and software functionality. Reporting counterparties no longer have to generate and submit multiple messages, which will require limited cost and effort to implement. SDRs will also require few, if any, updates to ingest fewer messages.

The Commission expects costs associated with the changes proposed in this release would be further mitigated by the fact that they involve updates to current systems, rather than having to create new reporting systems as most firms had to do when ESMA and the CFTC first required swaps reporting. CFTC SMEs estimate the cost of these changes to be small, but not zero for large reporting entities and SDRs due to the reduction in complexity and system features. However, over time, after these one-time system updates are implemented, the Commission expects SDRs, SEFs, DCMs, and reporting counterparties would recognize significant benefits through reduced costs and complexity associated with reporting streamlined data to SDRs over an extended time frame.

The Commission preliminarily believes that on balance the expected benefits justify the proposed rule amendments notwithstanding their expected mitigated costs.

(B) Request for Comment

The Commission requests comment on its considerations of the costs and benefits of the proposed amendments to § 45.3. Are there additional costs or benefits that the Commission should consider that have not yet been highlighted? Commenters are encouraged to include both qualitative and quantitative assessments of these benefits.

Are there any other alternatives that may provide preferable costs or benefits than the costs and benefits related to the proposed amendments? Specific areas of interest include the following:

(38) The Commission has noted benefits of providing extended timeframes for regulatory reporting, including improved data quality and reduced number of reports for SDRs to maintain. Are there additional benefits the Commission has not identified given the revised structure? Are these benefits likely to be especially notable for certain types of reporting entities?

(39) The Commission has noted that the revised reporting framework should, over time and after initial outlays, reduce costs for all reporting entities, given the ability of an entity to retain but update their current reporting systems. Are there costs the Commission has not anticipated in these revisions? Are there specific types of reporters that are more likely to adjust their current reporting systems? What would be the reason for these adjustments, and the costs/benefits associated with these adjustments?

(40) The Commission has outlined two revised reporting frameworks, depending on the type of the reporting entity (*e.g.,* T+1 for SDs, MSPs and DCOs). Does this division into two reporting categories make sense given the current or anticipated reporting systems of the entities? Would reporting be improved if any entity types were moved from one to the other category?

(41) The Commission requests comment on the range of costs SDRs, SEFs, DCMs, DCOs, SDs, MSPs, and non-SD/MSP/DCO reporting counterparties would have to spend to comply with the amendments proposed in § 45.3.

b. § 45.4—Swap Data Reporting: Continuation Data

The Commission is proposing to amend § 45.4 to: (i) Remove the option for reporting counterparties to report state data as required swap continuation data; (ii) extend the deadline for reporting required swap continuation data to T+1 or T+2, depending on the reporting counterparty; (iii) remove the requirement for non-SD/MSP/DCO reporting counterparties to report valuation data quarterly; and (iv) require SD/MSP/DCO reporting counterparties to report margin and collateral data daily.

The Commission believes: (i) Removing the option for state data reporting would reduce the number of messages being sent to and stored by SDRs; (ii) extending the deadline to report required swap continuation data would improve data quality without impacting the Commission's ability to perform its regulatory responsibilities; (iii) removing the valuation requirement for non-SD/MSP/DCO reporting counterparties would reduce burdens for these counterparties, which tend to be smaller and less-active in the swaps market, without sacrificing any important information; and (iv) requiring SD/MSP/DCO reporting counterparties to report margin and collateral daily is essential for the Commission to monitor risk in the swaps market.

(A) Costs and Benefits

Removing state data reporting would benefit reporting counterparties by significantly reducing the number of messages they report to SDRs. Relatedly, this would benefit SDRs by significantly reducing the number of messages they need to ingest, validate, process, and store In 2019, CFTC staff estimates that the Commission received over 557,000,000 swap messages from CME, DDR, and ICE. Staff analysis from December 2019 showed over 50% of all records submitted were state data messages.

Extending the deadline to report required swap continuation data would benefit SDRs and reporting counterparties by likely reducing the number of errors SDRs would need to notify reporting counterparties about. Removing the requirement for non-SD/MSP/DCO reporting counterparties to report quarterly valuation data would reduce reporting costs for these estimated 1,585 counterparties, which tend to be smaller and less-active in the swaps market. Because these entities are small relative to the swaps market as a whole, the lack of quarterly valuation data is not anticipated to greatly inhibit the market oversight responsibilities of the Commission. Requiring SD/MSP/DCO reporting counterparties to report margin and collateral daily would benefit the swaps market by improving the Commission's ability to monitor risk in the swaps market, particularly for uncleared swaps. Because current part 45 reports do not include collateral information, the Commission is often able to identify the level of risk inherent to a swap (or set of swaps), but not fully understand the amount of collateral protection a counterparty holds to mitigate this risk.

The initial costs of updating systems to adopt the changes proposed in § 45.4 are expected to range from low for many impacted parties to moderate for others, and would be offset by the lessened reporting burden. For instance, the Commission understands that many reporting counterparties already have systems designed to report swap data, including snapshot data, to SDRs

according the current timelines—extending the timeline for reporting reduces the complexity of the reporting system and removing a message type that accounts for over 50% of the existing message traffic is a significant reduction in reporting burden. SDRs likewise have systems to accept snapshot data which would require minimal updates (based on the experience of CFTC SMEs with similar systems) and reduced data storage costs.

Non-SD/MSP/DCO reporting counterparties would need to update their systems to stop sending valuation data to SDRs. In contrast, SD/MSP/DCO reporting counterparties would need to program systems to begin reporting margin and collateral data in addition to current valuation data. The T+1 reporting timeline greatly mitigates this cost by allowing end-of-day data integration and validation processes, which according to CFTC SMEs and staff conversations with industry participants provides flexibility in exactly how and when system resources are used to produce the reports and better aligns trade and collateral and margin data reporting streams.

Additionally, over time, after these one-time system updates, the Commission expects SDRs, SEFs, DCMs, and reporting counterparties would recognize the full benefits of the reduced costs associated with reporting streamlined data to SDRs in a more reasonable time frame. While the Commission understands reporting margin and collateral data to SDRs could involve considerable expense for the estimated 121 SD/MSP/DCO reporting counterparties, the Commission notes that ESMA currently requires the reporting of much of the same information to E.U.-registered TRs. The Commission expects this to mitigate the costs for SDRs that serve multiple jurisdictions.

The Commission expects this could also mitigate the costs for most of the 121 SD/MSP/DCO reporting counterparties given that they are likely active in the European swap markets and thus already fall under similar requirements. The Commission also expects that, for the other relevant reporting entities, collateral and margin information is already known by the entity. The primary cost would be in integrating existing collateral data streams into SDR reporting workflows. CFTC SMEs estimate the cost of these changes to be small to moderate for large reporting entities and SDRs due to the reduction in complexity and system features, as well as the extended timeline to integrate potentially disparate data streams.

The Commission preliminarily believes that on balance the expected benefits justify the proposed rule amendments notwithstanding their expected mitigated costs.

(B) Request for Comment

The Commission requests comment on its considerations of the costs and benefits of the proposed amendments to § 45.4, given that there might be different transaction reporting and risk reporting systems. Are there additional costs or benefits that the Commission should consider? Commenters are encouraged to include both qualitative and quantitative assessments of these benefits.

Are there any other alternatives that may provide preferable costs or benefits than the costs and benefits related to the proposed amendments? Specific areas of interest include the following:

(42) The Commission requests comment on the range of costs SDRs, SEFs, DCMs, DCOs, SDs, MSPs, and non-SD/MSP/DCO reporting counterparties would have to spend to comply with the amendments proposed in § 45.4.

c. § 45.5—Unique Swap Identifiers

The Commission is proposing to amend § 45.5 to: (i) Require reporting counterparties use UTIs instead of USIs for new swaps; (ii) require SD/MSP entities that are financial entities to generate UTIs for off-facility swaps; and (iii) permit non-SD/MSP/DCO reporting counterparties that are not financial entities to ask their SDR to generate UTIs for swaps.

In general, as described in section II.E, the Commission believes transitioning to the globally-standardized UTI system will benefit SDRs, SEFs, DCMs, and reporting counterparties by reducing the complexity associated with reporting swaps to or in multiple jurisdictions.

(A) Costs and Benefits

The Commission believes that proposed § 45.5 would benefit SDRs by providing one standard that multiple regulators should adopt to reduce the burdens associated with multiple jurisdictions with different, and possibly conflicting, standards. The Commission believes that requiring SD/MSP and financial entity reporting counterparties to generate UTIs for off-facility swaps would benefit non-financial entities by reducing the frequency with which they would be responsible for UTI generation, as compared to the current frequency with which they generate USIs.

The Commission believes permitting non-SD/MSP/DCO reporting counterparties that are not financial entities to ask their SDR to generate UTIs for swaps would benefit smaller, less-active swaps market participants by relieving them of the burden to create UTIs. While non-financial entities account for a small portion of total swaps traded as noted above, this group is mostly comprised of end-users that often don't maintain systems that automatically generate UTIs. Therefore, this group will benefit proportionally more from this change.

Permitting these reporting counterparties to ask the SDRs to generate UTIs would maintain, but lower, an ancillary cost for the three SDRs that are currently required to generate USIs for non-SD/MSP/DCO reporting counterparties. The Commission believes that giving these reporting counterparties, which should be a minority of the 1,585 non-SD/MSP reporting counterparties, the option, rather than a mandate, strikes the appropriate balance between avoiding undue costs for SDRs and significant burdens for the least-sophisticated market participants.

In general, the Commission expects the initial costs of updating systems to adopt UTIs could be significant. For instance, the Commission expects that reporting counterparties and SDRs have systems that create, report, accept, validate, process, and store USIs. CFTC SMEs estimate the cost of these changes to be small for large reporting entities and small to moderate for SDRs. However, over time, after these one-time system updates, the Commission expects market participants would recognize the full benefits of the reduced costs associated with reporting a globally-standardized UTI.

In addition, the Commission understands that ESMA already mandates UTIs. The Commission expects that this should mitigate burdens for SDRs serving multiple jurisdictions as well as reporting counterparties active in the European markets since they have likely already updated their systems to meet the European standards.

The Commission preliminarily believes that on balance the expected benefits justify the proposed rule amendments notwithstanding their expected mitigated costs.

(B) Request for Comment

The Commission requests comment on its considerations of the costs and benefits of the proposed amendments to § 45.5. Are there additional costs or benefits that the Commission should consider? Commenters are encouraged to include both qualitative and

quantitative assessments of these benefits.

Are there any other alternatives that may provide preferable costs or benefits than the costs and benefits related to the proposed amendments?

d. § 45.6—Legal Entity Identifiers

The Commission is proposing to amend § 45.6 to: (i) Require SDs, MSPs, DCOs, SEFs, DCMs, and SDRs to maintain and renew LEIs; (ii) required registered entities and financial entities to obtain LEIs for swap counterparties that do not have one; and (iii) update unnecessary and outdated regulatory text. The Commission believes accurate LEIs are essential for the Commission to use swap data to fulfill its regulatory responsibilities.

(A) Costs and Benefits

Mandating LEI renewal will benefit the swaps market by improving the Commission's ability to analyze activity in the swaps market. Reference data provides valuable identification and relationship information about swap counterparties. Accurate reference data allows for robust analysis of swaps risk concentration within and across entities, as well as a way to identify the distribution or transfer of risk across different legal entities under the same parent. The Commission also believes accurate reference data is essential for it to satisfy its regulatory responsibilities because it clearly identifies entities involved in the swaps market, as well as how these entities relate to one another—both key requirements for monitoring systemic risk and promoting fair and efficient markets. In addition, LEIs have already been broadly adopted in swaps markets and their widespread use has shown promise by reducing ambiguity engendered by market participants previously using a variety of non-standard reporting identifiers.

However, the Commission recognizes LEI renewals impose some costs. Currently, the Commission understands that LEI renewals cost each holder $50 per year. To limit burdens for counterparties that are smaller or less-active in the swaps market, the Commission has proposed limiting the renewal requirement to the estimated 151 SDs, MSPs, SEFs, DCMs, DCOs, and SDRs, resulting in an aggregate cost of approximately $7,550 for this requirement. The Commission believes the activities of these entities have the most systemic impact on the Commission's ability to fulfill its regulatory mandates and thus warrant this small additional cost.

Requiring each DCO and financial entity reporting counterparty to obtain an LEI for their counterparties that do not have LEIs would both further the Commission's objective of monitoring risk in the swaps market and incentivize LEI registration for counterparties that have not yet obtained LEIs. However, the Commission recognizes this requirement imposes some costs either on the entity obtaining an LEI for its counterparty, or the entity incentivized to register on its own.

The number of current swap counterparties without LEIs is difficult to estimate because of the lack of standardization of non-LEI identifiers. The Commission cannot therefore determine whether non-LEI identifiers represent an entity that has already been assigned an LEI or whether two non-LEI identifiers are two different representations of the same entity. However, the Commission expects the number of counterparties currently without LEIs to be small, given the results of an analysis of swap data from December 2019 that showed 90% of all records reported had LEIs for both counterparties. More generally, any swap data that does not identify eligible counterparties with an LEI hinders the Commission's fulfillment of its regulatory mandates, including systemic risk monitoring.

The Commission preliminarily believes that on balance the expected benefits justify the proposed rule amendments notwithstanding their expected mitigated costs.

(B) Request for Comment

The Commission requests comment on its considerations of the costs and benefits of the proposed amendments to § 45.6. Are there additional costs or benefits that the Commission should consider? Commenters are encouraged to include both qualitative and quantitative assessments of these benefits.

Are there any other alternatives that may provide preferable costs or benefits than the costs and benefits related to the proposed amendments? Specific areas of interest include the following:

(43) The Commission requests comment on the range of costs for DCO and financial entity reporting counterparties to obtain LEIs via third-party registration for counterparties that have not obtained LEIs to comply with proposed § 45.6(d)(3).

e. § 45.10—Reporting to a Single SDR

The Commission is proposing to amend § 45.10 to permit reporting counterparties to transfer swap data and swap transaction and pricing data between SDRs in revised § 45.10(d). To do so, reporting counterparties would need to notify the current SDR, new SDR, and non-reporting counterparty of the UTIs for the swaps being transferred and the date of transfer at least five business days before the transfer. Reporting counterparties would then need to report the change of SDR to the current SDR and the new SDR, and then begin reporting to the new SDR.

The Commission believes the ability to change SDRs will benefit reporting counterparties by permitting them to choose the SDR that best fits their business needs.

(A) Costs and Benefits

Proposed § 45.10(d) would benefit reporting counterparties by giving them the freedom to select the SDR that provides the best services, pricing, and functionality to serve their business needs instead of having to use the same SDR for the entire life of the swap. The Commission believes reporting counterparties could benefit through reduced costs if they had the ability to change to an SDR that provided services better calibrated to their business needs.

The Commission recognizes the proposal would impose costs on the three SDRs. SDRs would need to update their systems to permit reporting counterparties to transfer swap data and swap transaction pricing data in the middle of a swap's lifecycle, rather than at the point of swap initiation. However, the Commission believes that after the initial system updates, SDRs should be able to accommodate these changes since they are only slightly more burdensome than most of the current on-boarding practices for new clients in place at each SDR. In addition, SDRs would benefit from attracting new clients that choose to move their reporting to their SDR.

The Commission preliminarily believes that on balance the expected benefits justify the proposed rule amendments notwithstanding their expected mitigated costs.

(B) Request for Comment

The Commission requests comment on its considerations of the costs and benefits of the proposed amendments to § 49.10. Are there additional costs and benefits that the Commission should consider? Commenters are encouraged to include both qualitative and quantitative assessments of these costs and benefits.

Are there any other alternatives that may provide preferable costs or benefits than the costs and benefits related to the proposed amendments?

f. § 45.12—Data Reporting for Swaps in a Swap Asset Class Not Accepted by Any SDR

The Commission is proposing to remove the § 45.12 regulations that permit voluntary supplemental reporting. Current § 45.12 permits voluntary supplemental reporting to SDRs and specifies counterparties must report USIs, LEIs, and an indication of jurisdiction as part of the supplementary report. Section 45.12 also requires counterparties correct errors in voluntary supplemental reports.

The Commission believes removing voluntary supplemental swap reports will reduce unnecessary messages in the SDR that do not provide a clear regulatory benefit to the Commission.

(A) Costs and Benefits

Removing the option for voluntary supplemental reporting would benefit SDRs to the extent that they would no longer need to take in, process, validate, and store the reports. This should reduce costs and any unnecessary complexities for SDRs with respect to these reports that provide little benefit to the Commission.

The Commission recognizes the proposal would impose initial costs on SDRs. The three SDRs would need to update their systems to stop accepting these reports. However, the Commission expects these costs would be minimal and after the initial system updates, SDRs should see reduced costs by not having to accommodate these reports. CFTC SMEs estimate the cost of these changes to be small for large reporting entities and SDRs.

The Commission preliminarily believes that on balance the expected benefits justify the proposed rule amendments notwithstanding their expected mitigated costs.

(B) Request for Comment

The Commission requests comment on its considerations of the costs and benefits of the proposed amendments to § 45.12. Are there additional costs and benefits that the Commission should consider? Commenters are encouraged to include both qualitative and quantitative assessments of these costs and benefits.

Are there any other alternatives that may provide preferable costs or benefits than the costs and benefits related to the proposed amendments?

g. § 45.13—Required Data Standards

The Commission is proposing to amend § 45.13 to (i) require reporting counterparties, SEFs, DCMs, and DCOs to report required swap creation and continuation data to SDRs using the technical standards, as instructed by the Commission, for each swap data element required to be reported; (ii) require reporting counterparties, SEFs, DCMs, and DCOs to satisfy SDR validation rules; and (iii) require SDRs to send reporting counterparties, SEFs, DCMs, DCOs, and third party service providers validation messages.

(A) Costs and Benefits

Through updating and further specifying the swap data elements required to be reported to SDRs, the Commission would benefit from having swap data that is more standardized, accurate, and complete across SDRs. As discussed in section V above, the Commission's use of the data to fulfill its regulatory responsibilities has been complicated by varying compliance with swap data standards both within and across SDRs.

The Commission recognizes that the changes proposed in § 45.13 would require SDRs, SEFs, DCMs, and reporting counterparties to update their reporting systems. The three SDRs would need to update their systems to accept swap data according to new technical standards and validation conditions. SEFs, DCMs, and reporting counterparties would need to update their systems as well to report swap data to SDRs according to the technical standards. These entities would also need to update systems to validate swap data. The costs of these updates are likely to differ from entity to entity but, depending on current systems, could be high.

However, if the Commission believes some factors would mitigate the costs to these entities. First, most of the swap data the Commission is proposing to further standardize with the updates in appendix 1 is currently being reported to SDRs. Commission staff recognize that data quality has improved over the past years as SDRs adopted more technical standards on their own. However, for certain assets classes, the Commission expects the changes could be more pronounced. Costs to standardize data elements that had not been standardized, in certain asset classes like commodities, or adding new data elements would be more costly but could be mitigated if the reporting entity already saves this information but does not currently then send it to the SDR.

Second, to the extent SDRs operate in multiple jurisdictions, ESMA already requires many of the swap data elements and many of the technical standards and validation conditions the Commission is proposing. An SDR may have to spend fewer resources updating its systems for the proposed changes in § 45.13 if it has already made these changes for European market participants. Similarly, SEFs, DCMs, and reporting counterparties reporting to European TRs may have to spend fewer resources.

Additionally, after the updates would be made, the Commission expects SDRs, SEFs, DCMs, and reporting counterparties would see a reduction in costs through reporting a more streamlined data set than what is currently being reported to SDRs. In addition, entities reporting in multiple jurisdictions would be able to report more efficiently as jurisdictions adopt the CDE Technical Guidance data elements.

Finally, this NPRM is proposed to have the part 43 swap transaction and pricing data be a subset of the part 45 swap data. This means proposed changes to parts 43 and 45 would largely require technological changes that could merge two different data streams into one. For example, SDRs will have to make adjustments to their extraction, transformation, and loading (ETL) process in order to accept feeds that comply with new technical standards and validation conditions.

Because many of the changes SDRs would make to comply with part 45 will likely also allow it to comply with part 43, the Commission anticipates significantly lower aggregate costs relative to the costs for parts 43 and 45 separately. For this reason, the costs described below may most accurately represent the full technological cost of satisfying the requirements for both proposed rules.

Based on conversations with CFTC staff experienced in designing data reporting, ingestion, and validation systems, Commission staff estimates the cost per SDR to be in a range of $141,000 to $500,000.[291] This staff cost estimate is based on a number of assumptions and covers the set of tasks required for the SDR to design, test, and implement a data system based on the proposed list of swap data elements in appendix 1 and the technical standards.[292] These numbers assume

[291] To generate the included estimates, a bottom-up estimation method was used based on internal CFTC expertise. In brief, and as seen in the estimates, the Commission anticipates that the task for the SDR's will be significantly more complex than it is for reporters. On several occasions, the CFTC has developed an ETL data stream similar to the anticipated parts 43 and 45 data streams. These data sets consist of 100–200 fields, similar to the number of fields in proposed appendix 1. This past Commission experience has been used to derive the included estimates.

[292] These assumptions include: (1) At a minimum, the SDRs will be required to establish a

Continued

that each SDR will spend approximately 3,000–5,000 hours to establish ETL into a relational database on such a data stream.[293]

For reporting entities, the Commission estimates the cost per reporting entity to be in a range of $23,500 to $72,500.[294] This cost estimate is based on a number of assumptions and covers a number of tasks required by the reporting entities to design, test, and implement an updated data system based on the proposed swap data elements, technical standards, and validation conditions.[295] These tasks include defining requirements, developing an extraction query, developing of an interim extraction format (*e.g.,* CSV), developing validations, developing formatting conversions, developing a framework to execute tasks on a repeatable basis, and finally, integration and testing. Staff estimates that it would take a reporting entity 200 to 325 hours to implement the extraction. Including validations and conversions would add another 300 to 400 hours, resulting in an estimated total of 500 to 725 hours per reporting entity.[296] The Commission preliminarily believes that on balance the expected benefits justify the proposed rule amendments notwithstanding their expected mitigated costs.

(B) Request for Comment

The Commission requests comment on its considerations of the costs and benefits of the proposed amendments to § 45.13. Are there additional costs and benefits that the Commission should consider? Commenters are encouraged to include both qualitative and quantitative assessments of these costs and benefits.

Are there any other alternatives that may provide preferable costs or benefits than the costs and benefits related to the proposed amendments?

5. Costs and Benefits of Proposed Amendments to Part 46

a. § 46.3—Swap Data Reporting for Pre-Enactment Swaps and Transition Swaps

The Commission is proposing to amend § 46.3 to remove an exception for required swap continuation data reporting for pre-enactment and transition swaps. Currently, § 46.3(a)(2) provides that reporting counterparties need to report only a subset of part 45 swap data fields when reporting updates to pre-enactment and transition swaps. The Commission is removing that exception to specify that reporting counterparties would report updates to pre-enactment and transition swaps according to part 45.

(A) Costs and Benefits

The Commission believes that this should be current practice for SDRs and reporting counterparties, and should therefore not impact costs or benefits to SDRs and reporting counterparties.

(B) Request for Comment

Is the Commission's understanding correct that the proposed change to § 46.3(a)(2) would have no practical impact on reporting counterparties and SDRs for pre-enactment and transition swap continuation data reporting? Are there additional costs and benefits that the Commission should consider? Commenters are encouraged to include both qualitative and quantitative assessments of these costs and benefits.

Are there any other alternatives that may provide preferable costs or benefits than the costs and benefits related to the proposed amendments?

b. § 46.10—Required Data Standards

The Commission is proposing to update § 46.10 to require reporting counterparties to use the required data standards set forth in § 45.13(a) for reporting historical swaps to SDRs. The Commission believes reporting counterparties currently use the same data standards for both parts 45 and 46 reporting. This change would ensure that reporting counterparties continue to do so under the proposed updated list of swap data elements in appendix 1 and the new technical standards.

(A) Costs and Benefits

SDRs and reporting counterparties would both incur costs in updating their part 46 reporting systems to report according to any of the proposed changes to part 45 reporting. However, given the diminishing number of historical swaps that have not yet matured or been terminated, the Commission expects that these costs would be negligible compared to the costs associated with complying with new § 45.13.

(B) Request for Comment

The Commission requests comment on its considerations of the costs and benefits of the proposed amendments to § 46.10. Are there additional costs and benefits that the Commission should consider? Are there factors that would raise costs for reporting historical swaps according to the standards in § 45.13? Commenters are encouraged to include both qualitative and quantitative assessments of these costs and benefits.

Are there any other alternatives that may provide preferable costs or benefits than the costs and benefits related to the proposed amendments?

c. § 46.11—Reporting of Errors and Omissions in Previously Omitted Data

The Commission is proposing to remove § 46.11(b) to remove the option for state data reporting. This would be consistent with the Commission's proposal to eliminate state data reporting in § 45.4.

(A) Costs and Benefits

SDRs and reporting counterparties would both incur costs in updating their part 46 reporting systems to eliminate state data reporting. However, given the dwindling number of historical swaps that have not yet matured or been terminated, the Commission expects that these costs would be negligible.[297]

data extraction transformation and loading (ETL) process. This implies that either the SDR is using a sophisticated ETL tool, or will be implementing a data staging process from which the transformation can be implemented. (2) It is assumed that the SDR would require the implementation of a new database or other data storage vehicle from which their business processes can be executed. (3) While the proposed record structure is straight forward, the implementation of a database representing the different asset classes may be complex. (4) It is assumed that the SDR would need to implement a data validation regime typical of data sets of this size and magnitude. (5) It is reasonable to expect that the cost to operate the stream would be lower due to the standardization of incoming data, and the opportunity to automatically validate the data may make it less labor intensive.

[293] The lower estimate of $141,000 represents 3,000 working hours at the $47 rate. The higher estimate of $500,000 represents 5,000 working hours at the $100 rate.

[294] To generate the included estimates, a bottom-up estimation method was used based on internal CFTC expertise. On several occasions, the CFTC has created data sets that are transmitted to outside organizations. These data sets consist of 100–200 fields, similar to the number of fields in the proposed appendix 1. This past experience has been used to derive the included estimates.

[295] These assumptions include: (1) The data that will be provided to the SDRs from this group of reporters largely exists in their environment. The back end data is currently available; (2) the data transmission connection from the firms that provide the data to the SDR currently exists. The assumption for the purposes of this estimate is that reporting firms do not need to set up infrastructure components such as FTP servers, routers, switches, or other hardware; it is already in place; (3) implementing the requirement does not cause reporting firms to create back end systems to collect their data in preparation for submission. It is assumed that firms that submit this information have the data available on a query-able environment today, (4) reporting firms are provided with clear direction and guidance regarding form and manner of submission. A lack of clear guidance will significantly increase costs for each reporter; and (5) there is no cost to disable reporting streams that will be made for obsolete by the proposed change in part 43.

[296] The lower estimate of $23,500 represents 500 working hours at the $47 rate. The higher estimate of $72,500 represent 725 working hours at the $100 rate.

[297] For instance, in reviewing credit default swap data, the Commission found that there were 153,563

(B) Request for Comment

The Commission requests comment on its considerations of the costs and benefits of the proposed amendments to § 46.11. Are there additional costs and benefits that the Commission should consider? Commenters are encouraged to include both qualitative and quantitative assessments of these costs and benefits.

Are there any other alternatives that may provide preferable costs or benefits than the costs and benefits related to the proposed amendments?

6. Costs and Benefits of Proposed Amendments to Part 49

a. § 49.4—Withdrawal From Registration

The Commission is proposing to amend § 49.4 to: (i) Remove the erroneous requirement for SDRs to submit a statement to the Commission that the custodial SDR is authorized to make the withdrawing SDR's data and records available in accordance with § 1.44; and (ii) remove the § 49.4(a)(2) requirement that prior to filing a request to withdraw, a registered SDR file an amended Form SDR to update any inaccurate information and replace it with a new requirement for SDRs to execute an agreement with the custodial SDR governing the custody of the withdrawing SDR's data and records prior to filing a request to withdraw with the Commission.

The Commission believes the amendments would simplify the regulations and help ensure that swap data is properly transferred to a different SDR when one SDR withdraws from registration.

(A) Costs and Benefits

The Commission believes SDRs would benefit from the removal of the unnecessary requirement to update Form SDR prior to withdrawing from registration. The Commission would benefit from having a clear regulatory requirement for an SDR withdrawing from registration to have an agreement with the custodial SDR regarding the withdrawing SDR's data and records.

The Commission believes SDRs would not incur any material costs associated with the proposed changes. SDRs would execute a custodial agreement to transfer the data as a matter of due course. The changes concerning timing and removing the erroneous reference would not result in costs for the SDRs.

(B) Request for Comment

The Commission requests comment on its considerations of the costs and benefits of the proposed amendments to § 46.11. Are there additional costs and benefits that the Commission should consider? Commenters are encouraged to include both qualitative and quantitative assessments of these costs and benefits.

Are there any other alternatives that may provide preferable costs or benefits than the costs and benefits related to the proposed amendments?

b. § 49.10—Acceptance of Data

Most of the amendments the Commission is proposing to § 49.10 are non-substantive minor technical amendments. However, the Commission is proposing to add a new requirement in § 49.10(c) to require SDRs to validate SDR data. Proposed § 49.10(c) would require that SDRs establish data validations. SDRs would also be required to send SEFs, DCMs, and reporting counterparties data validation acceptance and error messages that identify the validation errors. The Commission is also proposing to require that SDRs cannot reject a swap transaction and pricing data message if it was submitted jointly with a swap data message that contained a validation error.

(A) Costs and Benefits

SDRs, SEFs, DCMs, and reporting counterparties would benefit by having a single set of validation rules in the technical standards instead of each SDR applying different validations.

SDRs, SEFs, DCMs, and reporting counterparties would incur costs in updating their reporting systems apply these validation rules. To the extent SDRs operate in multiple jurisdictions, ESMA is already requiring many of the data validations that DMO is proposing in the technical standards to be published on *cftc.gov*. An SDR may have to spend fewer resources updating its systems for the proposed changes in § 49.10(c) if it has already made these changes for European market participants. Similarly, SEFs, DCMs, and reporting counterparties reporting to European TRs may have to spend fewer resources making these updates.

(B) Request for Comment

The Commission requests comment on its considerations of the costs and benefits of the proposed amendments to § 49.10(c). Are there additional costs and benefits that the Commission should consider? Commenters are encouraged to include both qualitative and quantitative assessments of these costs and benefits.

Are there any other alternatives that may provide preferable costs or benefits than the costs and benefits related to the proposed amendments?

7. Reporting in Light of CEA Section 15(a)

The Dodd-Frank Act sought to promote the financial stability of the U.S., in part, by improving financial system accountability and transparency. More specifically, Title VII of the Dodd-Frank Act directs the Commission to promulgate regulations to increase swaps markets' transparency and thereby reduce the potential for counterparty and systemic risk.[298] Transaction-based reporting is a fundamental component of the legislation's objectives to increase transparency, reduce risk, and promote market integrity within the financial system generally, and the swaps market in particular. The SDRs and the SEFs, DCMs, and other reporting entities that submit data to SDRs are central to achieving the legislation's objectives related to swap reporting.

CEA section 15(a) requires the Commission to consider the costs and benefits of the proposed amendments to parts 23, 43, 45, and 49 with respect to the following factors:

- Protection of market participants and the public;
- Efficiency, competitiveness, and financial integrity of markets;
- Price discovery;
- Sound risk management practices; and
- Other public interest considerations.

A discussion of these proposed amendments in light of CEA section 15(a) factors is set out immediately below.

a. Protection of Market Participants and the Public

The Commission believes that the reporting changes under parts 45, 46, and 49 would enhance protections already in place for market participants and the public. By lengthening reporting timeframes and standardizing data formats, the Commission believes that it would be provided a more cohesive, more standardized, and, ultimately, more accurate data without sacrificing

open pre-enactment swaps and transition swaps in 2013. In 2019, that number had decreased to 2,048.

[298] *See* Congressional Research Service Report for Congress, The Dodd-Frank Wall Street Reform and Consumer Protection Act: Title VII, Derivatives, by Mark Jickling and Kathleen Ann Ruane (August 30, 2010); Department of the Treasury, Financial Regulatory Reform: A New Foundation: Rebuilding Financial Supervision and Regulation (June 17, 2009) at 47–48.

the ability to oversee the markets in a robust fashion. Higher-quality swap data would improve the Commission's oversight and enforcement capabilities, and, in turn, would aid it in protecting markets, participants, and the public in general.

b. Efficiency, Competitiveness, and Financial Integrity

The Commission believes the proposed rules would streamline reporting and improve efficiencies given the improved data standardization. By identifying reporting entities and by making DCO reporting duties clearer, the proposed rules strive to improve reliability and consistency of swap data. This reliability might further lead to bolstering the financial integrity of swaps markets. Finally, the validation of swap data would improve the accuracy and completeness of swap data available to the Commission and would assist the Commission with, among other things, improved monitoring of risk exposures of individual counterparties, monitoring concentrations of risk exposure, and evaluating systemic risk.

c. Price Discovery

The Commission does not believe the proposed rules would have a significant impact on price discovery.

d. Risk Management Practices

The Commission believes that the proposed rules would improve the quality of swap data reported to SDRs and, hence, improve the Commission's ability to monitor the swaps market, react to changes in market conditions, and fulfill its regulatory responsibilities generally. The Commission believes that regulator access to high-quality swap data is essential for regulators' to monitor the swaps market for systemic risk, or unusually large concentrations of risk in individual swaps markets or asset classes.

e. Other Public Interest Considerations

The Commission believes that the increased accuracy resulting from improvements to data entry by market participants and validation efforts by SDRs via the proposed rules has other public interest considerations including:

- Increased understanding for the public, market participants, and the Commission of the interaction between the swaps market, other financial markets, and the overall economy;
- Improved regulatory oversight and enforcement capabilities; and
- Enhanced information for the Commission and other regulators so that they may establish more effective public policies to monitor and, where necessary, reduce overall systemic risk.

8. General Request for Comment

The Commission requests comment on all aspects of the proposed rules. Beyond specific questions interspersed throughout this discussion, the Commission generally requests comment on all aspects of its consideration of costs and benefits, including: Identification and assessment of any costs and benefits not discussed therein; the potential costs and benefits of alternatives; data and any other information (including proposed methodology) to assist or otherwise inform the Commission's ability to quantify or qualitatively describe the benefits and costs of the proposed rules; and substantiating data, statistics, and any other information to support statements by commenters with respect to the Commission's consideration of costs and benefits. Commenters also may suggest other alternatives to the proposed approach where the commenters believe that the alternatives would be appropriate under the CEA and provide a superior cost-benefit profile. Commenters are encouraged to include both qualitative and quantitative assessments of these benefits and costs.

D. Antitrust Considerations

CEA section 15(b) requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of the CEA, in issuing any order or adopting any Commission rule or regulation.

The Commission does not anticipate that the proposed amendments to part 45 would result in anti-competitive behavior. The Commission expects the proposed amendments to § 45.10(d) that would permit reporting counterparties to change SDRs would promote competition by encouraging SDRs to offer competitive pricing and services to encourage reporting counterparties to either stay customers or come to their SDR. The Commission encourages comments from the public on any aspect of the proposal that may have the potential to be inconsistent with the antitrust laws or anti-competitive in nature.

List of Subjects

17 CFR Part 45

Data recordkeeping requirements, Data reporting requirements, Swaps.

17 CFR Part 46

Data recordkeeping requirements, Data reporting requirements, Swaps.

17 CFR Part 49

Registration and regulatory requirements, Swap data repositories.

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR chapter I as follows:

PART 45—SWAP DATA RECORDKEEPING AND REPORTING REQUIREMENTS

■ 1. The authority citation for part 45 continues to read as follows:

Authority: 7 U.S.C. 6r, 7, 7a–1, 7b–3, 12a, and 24a, as amended by Title VII of the Wall Street Reform and Consumer Protection Act of 2010, Pub. L. 111–203, 124 Stat. 1376 (Jul. 21, 2010), unless otherwise noted.

■ 2. In part 45, revise all references to ''unique swap identifier'' to read ''unique transaction identifier'' and revise all references to ''non-SD/MSP'' to read ''non-SD/MSP/DCO''.

§ § 45.2, 45.5, 45.7, 45.8, and 45.9 [Amended]

■ 3. In the table below, for each section and paragraph indicated in the left column, remove the term indicated in the middle column from wherever it appears in the section or paragraph, and add in its place the term indicated in the right column:

Section/paragraph	Remove	Add
45.2(a)	major swap participant subject to the jurisdiction of the Commission	major swap participant
45.2(b)	counterparties subject to the jurisdiction of the Commission	counterparties
45.2(b)	the clearing requirement exception	any clearing requirement exception or exemption
45.2(b)	in CEA section 2(h)(7)	pursuant to section 2(h)(7) of the Act or part 50 of this chapter
45.2(h)	counterparty subject to the jurisdiction of the Commission	counterparty

Section/paragraph	Remove	Add
45.5 (introductory text)	swap subject to the jurisdiction of the Commission	swap
45.5 (introductory text)	(f)	(h)
45.5(a)(1)	single data field	single data element with a maximum length of 52 characters
45.5(b)	swap dealer or major swap participant	financial entity
45.5(b)(1)	transmission of data	transmission of swap data
45.5(b)(1)	single data field	single data element with a maximum length of 52 characters
45.5(b)(1)(ii)	swap dealer or major swap participant	reporting counterparty
45.5(d)(1)	single data field	single data element with a maximum length of 52 characters
45.5(e)(1)	(c)	(d)
45.5(e)(1)	of this section	of this section, as applicable
45.5(e)(2)(i)	question.	question;
45.5(e)(2)(ii)	agent.	agent; and
45.7 (introductory text)	swap subject to the jurisdiction of the Commission	swap
45.8(h)	swap creation data	required swap creation data
45.8(h)(1)	achieve this	comply with paragraph (h) of this section
45.8(h)(2)	achieve this	comply with paragraph (h) of this section
45.9	swap counterparties	reporting counterparties

■ 4. Revise § 45.1 to read as follows:

§ 45.1 Definitions.

(a) As used in this part:

Allocation means the process by which an agent, having facilitated a single swap transaction on behalf of several clients, allocates a portion of the executed swap to the clients.

As soon as technologically practicable means as soon as possible, taking into consideration the prevalence, implementation, and use of technology by comparable market participants.

Asset class means a broad category of commodities, including, without limitation, any ''excluded commodity'' as defined in section 1a(19) of the Act, with common characteristics underlying a swap. The asset classes include interest rate, foreign exchange, credit, equity, other commodity, and such other asset classes as may be determined by the Commission.

Business day means each twenty-four hour day, on all days except Saturdays, Sundays, and Federal holidays.

Business hours means consecutive hours during one or more consecutive business days.

Clearing swap means a swap created pursuant to the rules of a derivatives clearing organization that has a derivatives clearing organization as a counterparty, including any swap that replaces an original swap that was extinguished upon acceptance of such original swap by the derivatives clearing organization for clearing.

Collateral data means the data elements necessary to report information about the money, securities, or other property posted or received by a swap counterparty to margin, guarantee, or secure a swap, as specified in appendix 1 to this part.

Derivatives clearing organization means a derivatives clearing organization, as defined by § 1.3 of this chapter, that is registered with the Commission.

Electronic reporting (''report electronically'') means the reporting of data normalized in data elements as required by the data standard or standards used by the swap data repository to which the data is reported. Except where specifically otherwise provided in this chapter, electronic reporting does not include submission of an image of a document or text file.

Execution means an agreement by the parties, by any method, to the terms of a swap that legally binds the parties to such swap terms under applicable law.

Execution date means the date, determined by reference to eastern time, on which swap execution occurred. The execution date for a clearing swap that replaces an original swap is the date, determined by reference to eastern time, on which the original swap has been accepted for clearing.

Financial entity has the meaning set forth in CEA section 2(h)(7)(C).

Global Legal Entity Identifier System means the system established and overseen by the Legal Entity Identifier Regulatory Oversight Committee for the unique identification of legal entities and individuals.

Legal entity identifier or *LEI* means a unique code assigned to swap counterparties and entities in accordance with the standards set by the Global Legal Entity Identifier System.

Legal Entity Identifier Regulatory Oversight Committee means the group charged with the oversight of the Global Legal Entity Identifier System that was established by the Finance Ministers and the Central Bank Governors of the Group of Twenty nations and the Financial Stability Board, under the Charter of the Regulatory Oversight Committee for the Global Legal Entity Identifier System dated November 5, 2012, or any successor thereof.

Life cycle event means any event that would result in a change to required swap creation data previously reported to a swap data repository in connection with a swap. Examples of such events include, without limitation, a counterparty change resulting from an assignment or novation; a partial or full termination of the swap; a change to the end date for the swap; a change in the cash flows or rates originally reported; availability of a legal entity identifier for a swap counterparty previously identified by some other identifier; or a corporate action affecting a security or securities on which the swap is based (*e.g.,* a merger, dividend, stock split, or bankruptcy).

Life cycle event data means all of the data elements necessary to fully report any life cycle event.

Mixed swap has the meaning set forth in CEA section 1a(47)(D), and refers to an instrument that is in part a swap subject to the jurisdiction of the Commission, and in part a security-based swap subject to the jurisdiction of the SEC.

Multi-asset swap means a swap that does not have one easily identifiable primary underlying notional item, but instead involves multiple underlying notional items within the Commission's jurisdiction that belong to different asset classes.

Non-SD/MSP/DCO counterparty means a swap counterparty that is not a swap dealer, major swap participant, or derivatives clearing organization.

Non-SD/MSP/DCO reporting counterparty means a reporting counterparty that is not a swap dealer, major swap participant, or derivatives clearing organization.

Novation means the process by which a party to a swap legally transfers all or part of its rights, liabilities, duties, and obligations under the swap to a new legal party other than the counterparty to the swap under applicable law.

Off-facility swap means any swap transaction that is not executed on or pursuant to the rules of a swap execution facility or designated contract market.

Original swap means a swap that has been accepted for clearing by a derivatives clearing organization.

Reporting counterparty means the counterparty required to report swap data pursuant to this part, selected as provided in § 45.8.

Required swap continuation data means all of the data elements that must be reported during the existence of a swap to ensure that all swap data concerning the swap in the swap data repository remains current and accurate, and includes all changes to the required swap creation data occurring during the existence of the swap. For this purpose, required swap continuation data includes:

(i) All life cycle event data for the swap; and

(ii) All swap valuation, margin, and collateral data for the swap.

Required swap creation data means all data for a swap required to be reported pursuant to § 45.3 for the swap data elements in appendix 1 to this part.

Swap means any swap, as defined by § 1.3 of this chapter, as well as any foreign exchange forward, as defined by section 1a(24) of the Act, or foreign exchange swap, as defined by section 1a(25) of the Act.

Swap data means the specific data elements and information in appendix 1 to this part required to be reported to a swap data repository pursuant to this part or made available to the Commission pursuant to part 49 of this chapter, as applicable.

Swap data validation procedures means procedures established by a swap data repository pursuant to § 49.10 of this chapter to accept, validate, and process swap data reported to the swap data repository pursuant to part 45 of this chapter.

Swap execution facility means a trading system or platform that is a swap execution facility as defined in CEA section 1a(50) and in § 1.3 of this chapter and that is registered with the Commission pursuant to CEA section 5h and part 37 of this chapter.

Swap transaction and pricing data means all data for a swap in appendix C to part 43 of this chapter required to be reported or publicly disseminated pursuant to part 43 of this chapter.

Unique transaction identifier means a unique alphanumeric identifier with a maximum length of 52 characters constructed solely from the upper-case alphabetic characters A to Z or the digits 0 to 9, inclusive in both cases, generated for each swap pursuant to § 45.5.

Valuation data means the data elements necessary to report information about the daily mark of the transaction, pursuant to section 4s(h)(3)(B)(iii) of the Act, and to § 23.431 of this chapter, if applicable, as specified in appendix 1 to this part.

(b) *Other defined terms.* Terms not defined in this part have the meanings assigned to the terms in § 1.3 of this chapter.

■ 5. Revise § 45.3 to read as follows:

§ 45.3 Swap data reporting: Creation data.

(a) *Swaps executed on or pursuant to the rules of a swap execution facility or designated contract market.* For each swap executed on or pursuant to the rules of a swap execution facility or designated contract market, the swap execution facility or designated contract market shall report required swap creation data electronically to a swap data repository in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the next business day following the execution date.

(b) *Off-facility swaps.* For each off-facility swap, the reporting counterparty shall report required swap creation data electronically to a swap data repository as provided by paragraph (b)(1) or (2) of this section, as applicable.

(1) If the reporting counterparty is a swap dealer, major swap participant, or derivatives clearing organization, the reporting counterparty shall report required swap creation data electronically to a swap data repository in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the next business day following the execution date.

(2) If the reporting counterparty is a non-SD/MSP/DCO counterparty, the reporting counterparty shall report required swap creation data electronically to a swap data repository in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the second business day following the execution date.

(c) *Allocations.* For swaps involving allocation, required swap creation data shall be reported electronically to a single swap data repository as follows.

(1) *Initial swap between reporting counterparty and agent.* The initial swap transaction between the reporting counterparty and the agent shall be reported as required by paragraphs (a) or (b) of this section, as applicable. A unique transaction identifier for the initial swap transaction shall be created as provided in § 45.5.

(2) *Post-allocation swaps*—(i) *Duties of the agent.* In accordance with this section, the agent shall inform the reporting counterparty of the identities of the reporting counterparty's actual counterparties resulting from allocation, as soon as technologically practicable after execution, but not later than eight business hours after execution.

(ii) *Duties of the reporting counterparty.* The reporting counterparty shall report required swap creation data, as required by paragraph (b) of this section, for each swap resulting from allocation to the same swap data repository to which the initial swap transaction is reported. The reporting counterparty shall create a unique transaction identifier for each such swap as required in § 45.5.

(d) *Multi-asset swaps.* For each multi-asset swap, required swap creation data and required swap continuation data shall be reported to a single swap data repository that accepts swaps in the asset class treated as the primary asset class involved in the swap by the swap execution facility, designated contract market, or reporting counterparty reporting required swap creation data pursuant to this section.

(e) *Mixed swaps.* (1) For each mixed swap, required swap creation data and required swap continuation data shall be reported to a swap data repository and to a security-based swap data repository registered with the Securities and Exchange Commission. This requirement may be satisfied by reporting the mixed swap to a swap data repository or security-based swap data repository registered with both Commissions.

(2) The registered entity or reporting counterparty reporting required swap creation data pursuant to this section shall ensure that the same unique transaction identifier is recorded for the swap in both the swap data repository and the security-based swap data repository.

(f) *Choice of swap data repository.* The entity with the obligation to choose the swap data repository to which all required swap creation data for the swap is reported shall be the entity that is required to make the first report of all data pursuant to this section, as follows:

(1) For swaps executed on or pursuant to the rules of a swap execution facility

or designated contract market, the swap execution facility or designated contract market shall choose the swap data repository;

(2) For all other swaps, the reporting counterparty, as determined in § 45.8, shall choose the swap data repository.

■ 6. Revise § 45.4 to read as follows:

§ 45.4 Swap data reporting: Continuation data.

(a) *Continuation data reporting method generally.* For each swap, regardless of asset class, reporting counterparties and derivatives clearing organizations required to report required swap continuation data shall report life cycle event data for the swap electronically to a swap data repository in the manner provided in § 45.13(a) within the applicable deadlines set forth in this section.

(b) *Continuation data reporting for original swaps.* For each original swap, the derivatives clearing organization shall report required swap continuation data, including terminations, electronically to the swap data repository to which the swap that was accepted for clearing was reported pursuant to § 45.3 in the manner provided in § 45.13(a) and in this section, and such required swap continuation data shall be accepted and recorded by such swap data repository as provided in § 49.10 of this chapter.

(1) The derivatives clearing organization that accepted the swap for clearing shall report all life cycle event data electronically to a swap data repository in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the next business day following the day, as determined according to eastern time, that any life cycle event occurs with respect to the swap.

(2) In addition to all other required swap continuation data, life cycle event data shall include all of the following:

(i) The legal entity identifier of the swap data repository to which all required swap creation data for each clearing swap was reported by the derivatives clearing organization pursuant to § 45.3(b);

(ii) The unique transaction identifier of the original swap that was replaced by the clearing swaps; and

(iii) The unique transaction identifier of each clearing swap that replaces a particular original swap.

(c) *Continuation data reporting for swaps other than original swaps.* For each swap that is not an original swap, including clearing swaps and swaps not cleared by a derivatives clearing organization, the reporting counterparty shall report all required swap continuation data electronically to a swap data repository in the manner provided in § 45.13(a) as provided in this paragraph (c).

(1) *Life cycle event data reporting.* (i) If the reporting counterparty is a swap dealer, major swap participant, or derivatives clearing organization, the reporting counterparty shall report life cycle event data electronically to a swap data repository in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the next business day following the day, as determined according to eastern time, that any life cycle event occurred, with the sole exception that life cycle event data relating to a corporate event of the non-reporting counterparty shall be reported in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the second business day following the day, as determined according to eastern time, that such corporate event occurred.

(ii) If the reporting counterparty is a non-SD/MSP/DCO counterparty, the reporting counterparty shall report life cycle event data electronically to a swap data repository in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the second business day following the day, as determined according to eastern time, that any life cycle event occurred.

(2) *Valuation, margin, and collateral data reporting.* If the reporting counterparty is a swap dealer, major swap participant, or derivatives clearing organization, swap valuation data and collateral data shall be reported electronically to a swap data repository in the manner provided in § 45.13(b) each business day.

■ 7. Amend § 45.5 by revising paragraphs (a)(1)(i); (b)(1)(i); (c) introductory text; (c)(1) introductory text; (c)(1)(i); (d) introductory text; (d)(1)(i) and (f); and adding paragraphs (g) and (h) to read as follows:

§ 45.5 Unique transaction identifiers.

* * * * *

(a) * * *

(1) * * *

(i) The legal entity identifier of the swap execution facility or designated contract market; and

* * * * *

(b) * * *

(1) * * *

(i) The legal entity identifier of the reporting counterparty; and

* * * * *

(c) *Off-facility swaps with a non-SD/MSP/DCO reporting counterparty that is not a financial entity.* For each off-facility swap for which the reporting counterparty is a non-SD/MSP/DCO counterparty that is not a financial entity, the reporting counterparty shall either: create and transmit a unique transaction identifier as provided in paragraphs (b)(1) and (2) of this section; or request that the swap data repository to which required swap creation data will be reported create and transmit a unique transaction identifier as provided in paragraphs (c)(1) and (2) of this section.

(1) *Creation.* The swap data repository shall generate and assign a unique transaction identifier as soon as technologically practicable following receipt of the request from the reporting counterparty. The unique transaction identifier shall consist of a single data element with a maximum length of 52 characters that contains two components:

(i) The legal entity identifier of the swap data repository; and

* * * * *

(d) *Off-facility swaps with a derivatives clearing organization reporting counterparty.* For each off-facility swap where the reporting counterparty is a derivatives clearing organization, the reporting counterparty shall create and transmit a unique transaction identifier as provided in paragraphs (d)(1) and (2) of this section.

(1) * * *

(i) The legal entity identifier of the derivatives clearing organization; and

* * * * *

(f) *Use.* Each registered entity and swap counterparty shall include the unique transaction identifier for a swap in all of its records and all of its swap data reporting concerning that swap, from the time it creates or receives the unique transaction identifier as provided in this section, throughout the existence of the swap and for as long as any records are required by the Act or Commission regulations to be kept concerning the swap, regardless of any life cycle events concerning the swap, including, without limitation, any changes with respect to the counterparties to the swap.

(g) *Third-party service provider.* If a registered entity or reporting counterparty required by this part to report required swap creation data or required swap continuation data contracts with a third-party service provider to facilitate reporting pursuant to § 45.9, the registered entity or reporting counterparty shall ensure that such third-party service provider creates and transmits the unique transaction identifier as otherwise required for such category of swap by paragraphs (a) through (e) of this section. The unique transaction identifier shall consist of a

single data element with a maximum length of 52 characters that contains two components:

(1) The legal entity identifier of the third-party service provider; and

(2) An alphanumeric code generated and assigned to that swap by the automated systems of the third-party service provider, which shall be unique with respect to all such codes generated and assigned by that third-party service provider.

(h) *Cross-jurisdictional swaps.* Notwithstanding the provisions of paragraphs (a) through (g) of this section, if a swap is also reportable to one or more other jurisdictions with a regulatory reporting deadline earlier than the deadline set forth in § 45.3, the same unique transaction identifier generated according to the rules of the jurisdiction with the earliest regulatory reporting deadline shall be transmitted pursuant to paragraphs (a) through (g) of this section and used in all recordkeeping and all swap data reporting pursuant to this part.

■ 8. Revise § 45.6 to read as follows:

§ 45.6 Legal entity identifiers.

Each swap execution facility, designated contract market, derivatives clearing organization, swap data repository, entity reporting pursuant to § 45.9, and counterparty to any swap that is eligible to receive a legal entity identifier shall obtain and be identified in all recordkeeping and all swap data reporting pursuant to this part by a single legal entity identifier as specified in this section.

(a) *Definitions.* As used in this section:

Local operating unit means an entity authorized under the standards of the Global Legal Entity Identifier System to issue legal entity identifiers.

Reference data means all identification and relationship information, as set forth in the standards of the Global Legal Entity Identifier System, of the legal entity or individual to which a legal entity identifier is assigned.

Self-registration means submission by a legal entity or individual of its own reference data.

Third-party registration means submission of reference data for a legal entity or individual that is or may become a swap counterparty, made by an entity or organization other than the legal entity or individual identified by the submitted reference data. Examples of third-party registration include, without limitation, submission by a swap dealer or major swap participant of reference data for its swap counterparties, and submission by a national numbering agency, national registration agency, or data service provider of reference data concerning legal entities or individuals with respect to which the agency or service provider maintains information.

(b) *International standard for the legal entity identifier.* The legal entity identifier used in all recordkeeping and all swap data reporting required by this part shall be issued under, and shall conform to, ISO Standard 17442, Legal Entity Identifier (LEI), issued by the International Organization for Standardization.

(c) *Reference data reporting.* Reference data for each swap execution facility, designated contract market, derivatives clearing organization, swap data repository, entity reporting pursuant to § 45.9, and counterparty to any swap shall be reported, by means of self-registration, third-party registration, or both, to a local operating unit in accordance with the standards set by the Global Legal Entity Identifier System. All subsequent changes and corrections to reference data previously reported shall be reported, by means of self-registration, third-party registration, or both, to a local operating unit as soon as technologically practicable following occurrence of any such change or discovery of the need for a correction.

(d) *Use of the legal entity identifier.* (1) Each swap execution facility, designated contract market, derivatives clearing organization, swap data repository, entity reporting pursuant to § 45.9, and swap counterparty shall use legal entity identifiers to identify itself and swap counterparties in all recordkeeping and all swap data reporting pursuant to this part. If a swap counterparty is not eligible to receive a legal entity identifier as determined by the Global Legal Entity Identifier System, such counterparty shall be identified in all recordkeeping and all swap data reporting pursuant to this part with an alternate identifier as prescribed by the Commission pursuant to § 45.13(a) of this chapter.

(2) Each swap dealer, major swap participant, swap execution facility, designated contract market, derivatives clearing organization, and swap data repository shall maintain and renew its legal identity identifier in accordance with the standards set by the Global Legal Entity Identifier System.

(3) Each derivatives clearing organization and each financial entity reporting counterparty executing a swap with a counterparty that is eligible to receive a legal entity identifier, but has not been assigned a legal entity identifier, shall, prior to reporting any required swap creation data for such swap, cause a legal entity identifier to be assigned to the counterparty, including if necessary, through third-party registration.

(4) For swaps previously reported pursuant to this part using substitute counterparty identifiers assigned by a swap data repository prior to Commission designation of a legal entity identifier system, each swap data repository shall map the legal entity identifiers for the counterparties to the substitute counterparty identifiers in the record for each such swap.

■ 9. In § 45.8, revise the introductory text to read as follows:

§ 45.8 Determination of which counterparty shall report.

The determination of which counterparty is the reporting counterparty for each swap shall be made as provided in this section.

* * * * *

■ 10. Revise § 45.10 to read as follows:

§ 45.10 Reporting to a single swap data repository.

All swap transaction and pricing data and swap data for a given swap shall be reported to a single swap data repository, which shall be the swap data repository to which the first report of such data is made, unless the reporting counterparty changes the swap data repository to which such data is reported pursuant to paragraph (d) of this section.

(a) *Swaps executed on or pursuant to the rules of a swap execution facility or designated contract market.* To ensure that all swap transaction and pricing data and swap data for a swap executed on or pursuant to the rules of a swap execution facility or designated contract market is reported to a single swap data repository:

(1) The swap execution facility or designated contract market shall report all swap transaction and pricing data and required swap creation data for a swap to a single swap data repository. As soon as technologically practicable after execution of the swap, the swap execution facility or designated contract market shall transmit to both counterparties to the swap, and to the derivatives clearing organization, if any, that will clear the swap, the identity of the swap data repository to which such data is reported.

(2) Thereafter, all swap transaction and pricing data, required swap creation data, and required swap continuation data for the swap shall be reported to that same swap data repository, unless the reporting counterparty changes the swap data repository to which such data

is reported pursuant to paragraph (d) of this section.

(b) *Off-facility swaps that are not clearing swaps.* To ensure that all swap transaction and pricing data and swap data for an off-facility swap that is not a clearing swap is reported to a single swap data repository:

(1) The reporting counterparty shall report all swap transaction and pricing data and required swap creation data to a single swap data repository. As soon as technologically practicable after execution, the reporting counterparty shall transmit to the other counterparty to the swap, and to the derivatives clearing organization, if any, that will clear the swap, the identity of the swap data repository to which such data is reported.

(2) Thereafter, all swap transaction and pricing data, required swap creation data, and required swap continuation data for the swap shall be reported to the same swap data repository, unless the reporting counterparty changes the swap data repository to which such data is reported pursuant to paragraph (d) of this section.

(c) *Clearing swaps.* To ensure that all swap transaction and pricing data and swap data for a given clearing swap, including clearing swaps that replace a particular original swap or that are created upon execution of the same transaction and that do not replace an original swap, is reported to a single swap data repository:

(1) The derivatives clearing organization that is a counterparty to such clearing swap shall report all swap transaction and pricing data and required swap creation data for that clearing swap to a single swap data repository. As soon as technologically practicable after acceptance of an original swap for clearing, or execution of a clearing swap that does not replace an original swap, the derivatives clearing organization shall transmit to the counterparty to each clearing swap the identity of the swap data repository to which such data is reported.

(2) Thereafter, all swap transaction and pricing data, required swap creation data and required swap continuation data for that clearing swap shall be reported by the derivatives clearing organization to the same swap data repository to which swap data has been reported pursuant to paragraph (c)(1) of this section, unless the reporting counterparty changes the swap data repository to which such data is reported pursuant to paragraph (d) of this section.

(3) For clearing swaps that replace a particular original swap, and for equal and opposite clearing swaps that are created upon execution of the same transaction and that do not replace an original swap, the derivatives clearing organization shall report all swap transaction and pricing data, required swap creation data, and required swap continuation data for such clearing swaps to a single swap data repository.

(d) *Change of swap data repository for swap transaction and pricing data and swap data reporting.* A reporting counterparty may change the swap data repository to which swap transaction and pricing data and swap data is reported as set forth in this paragraph.

(1) *Notifications.* At least five business days prior to changing the swap data repository to which the reporting counterparty reports swap transaction and pricing data and swap data for a swap, the reporting counterparty shall provide notice of such change to the other counterparty to the swap, the swap data repository to which swap transaction and pricing data and swap data is currently reported, and the swap data repository to which swap transaction and pricing data and swap data will be reported going forward. Such notification shall include the unique transaction identifier of the swap and the date on which the reporting counterparty will begin reporting such swap transaction and pricing data and swap data to a different swap data repository.

(2) *Procedure.* After providing the notifications required in paragraph (d)(1) of this section, the reporting counterparty shall follow paragraphs (d)(2)(i) through (iii) of this section to complete the change of swap data repository.

(i) The reporting counterparty shall report the change of swap data repository to the swap data repository to which the reporting counterparty is currently reporting swap transaction and pricing data and swap data as a life cycle event for such swap pursuant to § 45.4.

(ii) On the same day that the reporting counterparty reports required swap continuation data as required by paragraph (d)(2)(i) of this section, the reporting counterparty shall also report the change of swap data repository to the swap data repository to which swap transaction and pricing data and swap data will be reported going forward, as a life cycle event for such swap pursuant to § 45.4. The required swap continuation data report shall identify the swap using the same unique transaction identifier used to identify the swap at the previous swap data repository.

(iii) Thereafter, all swap transaction and pricing data, required swap creation data, and required swap continuation data for the swap shall be reported to the same swap data repository, unless the reporting counterparty for the swap makes another change to the swap data repository to which such data is reported pursuant to paragraph (d) of this section.

■ 11. Revise § 45.11 to read as follows:

§ 45.11 Data reporting for swaps in a swap asset class not accepted by any swap data repository.

(a) Should there be a swap asset class for which no swap data repository currently accepts swap data, each swap execution facility, designated contract market, derivatives clearing organization, or reporting counterparty required by this part to report any required swap creation data or required swap continuation data with respect to a swap in that asset class must report that same data to the Commission.

(b) Data reported to the Commission pursuant to this section shall be reported at times announced by the Commission and in an electronic file in a format acceptable to the Commission.

§ 45.12 [Removed and Reserved]

■ 12. Remove and reserve § 45.12.

■ 13. Revise § 45.13 to read as follows:

§ 45.13 Required data standards.

(a) *Data reported to swap data repositories.* (1) In reporting required swap creation data and required swap continuation data to a swap data repository, each reporting counterparty, swap execution facility, designated contract market, and derivatives clearing organization, shall report the swap data elements in appendix 1 to this part in the form and manner provided in the technical specifications published by the Commission pursuant to § 45.15.

(2) In reporting required swap creation data and required swap continuation data to a swap data repository, each reporting counterparty, swap execution facility, designated contract market, and derivatives clearing organization making such report shall satisfy the swap data validation procedures of the swap data repository.

(3) In reporting swap data to a swap data repository as required by this part, each reporting counterparty, swap execution facility, designated contract market, and derivatives clearing organization shall use the facilities, methods, or data standards provided or required by the swap data repository to which the entity or counterparty reports the data.

(b) *Data Validation Acceptance Message.* (1) For each required swap

creation data or required swap continuation data report submitted to a swap data repository, a swap data repository shall notify the reporting counterparty, swap execution facility, designated contract market, derivatives clearing organization, or third-party service provider submitting the report whether the report satisfied the swap data validation procedures of the swap data repository. The swap data repository shall provide such notification as soon as technologically practicable after accepting the required swap creation data or required swap continuation data report. A swap data repository may satisfy the requirements of this paragraph by transmitting data validation acceptance messages as required by § 49.10 of this chapter.

(2) If a required swap creation data or required swap continuation data report to a swap data repository does not satisfy the data validation procedures of the swap data repository, the reporting counterparty, swap execution facility, designated contract market, or derivatives clearing organization, required to submit the report has not yet satisfied its obligation to report required swap creation or continuation data in the manner provided by paragraph (a) of this section within the timelines set forth in §§ 45.3 and 45.4. The reporting counterparty, swap execution facility, designated contract market, or derivatives clearing organization has not satisfied its obligation until it submits the required swap data report in the manner provided by paragraph (a) of this section, which includes the requirement to satisfy the data validation procedures of the swap data repository, within the applicable time deadline set forth in §§ 45.3 and 45.4.

■ 14. Add § 45.15 to read as follows:

§ 45.15 Delegation of authority.

(a) *Delegation of authority to the Chief Information Officer.* The Commission hereby delegates to its chief information officer, until the Commission orders otherwise, the authority set forth in paragraph (a) of this section, to be exercised by the chief information officer or by such other employee or employees of the Commission as may be designated from time to time by the chief information officer. The chief information officer may submit to the Commission for its consideration any matter which has been delegated in this paragraph. Nothing in this paragraph prohibits the Commission, at its election, from exercising the authority delegated in this paragraph. The authority delegated to the chief information officer by this paragraph (a) shall include:

(1) The authority to determine the manner, format, coding structure, and electronic data transmission standards and procedures acceptable to the Commission for the purposes of § 45.11;

(2) The authority to determine whether the Commission may permit or require use by swap execution facilities, designated contract markets, derivatives clearing organizations, or reporting counterparties in reporting pursuant to § 45.11 of one or more particular data standards (such as FIX, FpML, ISO 20022, or some other standard), in order to accommodate the needs of different communities of users;

(3) The dates and times at which required swap creation data or required swap continuation data shall be reported pursuant to § 45.11; and

(4) The chief information officer shall publish from time to time in the **Federal Register** and on the website of the Commission the format, data schema, electronic data transmission methods and procedures, and dates and times for reporting acceptable to the Commission with respect to swap data reporting pursuant to § 45.11.

(b) *Delegation of authority to the Director of the Division of Market Oversight.* The Commission hereby delegates to the Director of the Division of Market Oversight, until the Commission orders otherwise, the authority set forth in § 45.13(a)(1), to be exercised by the Director of the Division of Market Oversight or by such other employee or employees of the Commission as may be designated from time to time by the Director of the Division of Market Oversight. The Director of the Division of Market Oversight may submit to the Commission for its consideration any matter which has been delegated pursuant to this paragraph. Nothing in this paragraph prohibits the Commission, at its election, from exercising the authority delegated in this paragraph. The authority delegated to the Director of the Division of Market Oversight by this paragraph (b) shall include:

(1) The authority to publish the technical specifications providing the form and manner for reporting the swap data elements in appendix 1 to this part to swap data repositories as provided in § 45.13(a)(1);

(2) The authority to determine whether the Commission may permit or require use by swap execution facilities, designated contract markets, derivatives clearing organizations, or reporting counterparties in reporting pursuant to § 45.13(a)(1) of one or more particular data standards (such as FIX, FpML, ISO 20022, or some other standard), in order to accommodate the needs of different communities of users;

(3) The dates and times at which required swap creation data or required swap continuation data shall be reported pursuant to § 45.13(a)(1); and

(4) The Director of the Division of Market Oversight shall publish from time to time in the **Federal Register** and on the website of the Commission the technical specifications for swap data reporting pursuant to § 45.13(a)(1).

■ 15. Revise appendix 1 to part 45 to read as follows:

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Appendix 1 to Part 45 – Swap Data Elements

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
	Category: Clearing						
1	Cleared	Indicator of whether the transaction has been cleared, or is intended to be cleared, by a central counterparty.	✓	✓	✓	✓	✓
2	Central counterparty	Identifier of the central counterparty (CCP) that cleared the transaction. This data element is not applicable if the value of the data element "Cleared" is "N" ("No, not centrally cleared") or "I" ("Intent to clear").	✓	✓	✓	✓	✓
3	Clearing account origin	Indicator of whether the clearing member acted as principal for a house trade or an agent for a customer trade.	✓	✓	✓	✓	✓
4	Clearing member	Identifier of the clearing member through which a derivative transaction was cleared at a central counterparty. This data element is applicable to cleared transactions under both the agency clearing model and the principal clearing model. • In the case of the principal clearing model, the clearing member is identified as clearing member and also as a counterparty in both transactions resulting from clearing: (i) in the transaction between the central counterparty and the clearing member; and (ii) in the transaction between the clearing member and the counterparty to the original alpha transaction. • In the case of the agency clearing model, the clearing member is identified as clearing member but not as the counterparty to transactions resulting from clearing. Under this model, the counterparties are the central counterparty and the client. This data element is not applicable if the value of the data element "Cleared" is "N" ("No, not centrally cleared") or "I" ("Intent to clear").	✓	✓	✓	✓	✓
5	Clearing swap USIs	The unique swap identifiers (USI) of each clearing swap that replaces the original swap that was submitted for clearing to the derivatives clearing organization, other than the USI for the swap currently being reported (as "USI" data element below).	✓	✓	✓	✓	✓
6	Clearing swap UTIs	The unique transaction identifiers (UTI) of each clearing swap that replaces the original swap that was submitted for clearing to the derivatives clearing organization, other than the UTI for the swap currently being reported (as "UTI" data element below).	✓	✓	✓	✓	✓
7	Original swap USI	The unique swap identifier (USI) of the original swap submitted for clearing to the derivatives clearing organization that is replaced by clearing swaps.	✓	✓	✓	✓	✓
8	Original swap UTI	The unique transaction identifier (UTI) of the original swap submitted for clearing to the derivatives clearing organization that is replaced by clearing swaps.	✓	✓	✓	✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
9	Original swap SDR identifier	Identifier of the swap data repository (SDR) to which the original swap was reported.	✓	✓	✓	✓	✓
10	Clearing receipt timestamp	The date and time, expressed in UTC, the original swap was received by the derivatives clearing organization (DCO) for clearing and recorded by the DCO's system.	✓	✓	✓	✓	✓
11	Clearing exceptions and exemptions - Counterparty 1	Identifies the type of clearing exception or exemption that the Counterparty 1 has elected. All applicable exceptions and exemptions must be selected. The values may be repeated as applicable.	✓	✓	✓	✓	✓
12	Clearing exceptions and exemptions – Counterparty 2	Identifies the type of the clearing exception or exemption that the Counterparty 2 has elected. All applicable exceptions and exemptions must be selected. The values may be repeated as applicable.	✓	✓	✓	✓	✓
	Category: Counterparty						
13	Counterparty 1 (reporting counterparty)	Identifier of the counterparty to an OTC derivative transaction who is fulfilling its reporting obligation via the report in question. In jurisdictions where both parties must report the transaction, the identifier of Counterparty 1 always identifies the reporting counterparty. In the case of an allocated derivative transaction executed by a fund manager on behalf of a fund, the fund and not the fund manager is reported as the counterparty.	✓	✓	✓	✓	✓
14	Counterparty 2	Identifier of the second counterparty to an OTC derivative transaction. In the case of an allocated derivative transaction executed by a fund manager on behalf of a fund, the fund and not the fund manager is reported as the counterparty.	✓	✓	✓	✓	✓
15	Counterparty 2 identifier source	Source used to identify the Counterparty 2.	✓	✓	✓	✓	✓
16	Counterparty 1 financial entity indicator	Indicator of whether Counterparty 1 is a financial entity as defined in CEA § 2(h)(7)(C).	✓	✓	✓	✓	✓
17	Counterparty 2 financial entity indicator	Indicator of whether Counterparty 2 is a financial entity as defined in CEA § 2(h)(7)(C).	✓	✓	✓	✓	✓
18	Buyer identifier	Identifier of the counterparty that is the buyer, as determined at the time of the transaction. A non-exhaustive list of examples of instruments for which this data element could apply are: • most forwards and forward-like contracts (except for foreign exchange forwards and foreign exchange non-	✓	✓	✓	✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		deliverable forwards) • most options and option-like contracts including swaptions, caps and floors • credit default swaps (buyer/seller of protection) • variance, volatility and correlation swaps • contracts for difference and spreadbets This data element is not applicable to instrument types covered by data elements Payer identifier and Receiver identifier.					
19	Seller identifier	Identifier of the counterparty that is the seller as determined at the time of the transaction. A non-exhaustive list of examples of instruments for which this data element could apply are: • most forwards and forward-like contracts (except for foreign exchange forwards and foreign exchange non-deliverable forwards) • most options and option-like contracts including swaptions, caps and floors • credit default swaps (buyer/seller of protection) • variance, volatility and correlation swaps • contracts for difference and spreadbets This data element is not applicable to instrument types covered by data elements Payer identifier and Receiver identifier.	✓	✓	✓	✓	✓
20	Payer identifier	Identifier of the counterparty of the payer leg as determined at the time of the transaction. A non-exhaustive list of examples of instruments for which this data element could apply are: • most swaps and swap-like contracts including interest rate swaps, credit total return swaps, and equity swaps (except for credit default swaps, variance, volatility, and correlation swaps) • foreign exchange swaps, forwards, non-deliverable forwards This data element is not applicable to instrument types covered by data elements Buyer identifier and Seller identifier.	✓	✓	✓	✓	✓
21	Receiver identifier	Identifier of the counterparty of the receiver leg as determined at the time of the transaction. A non-exhaustive list of examples of instruments for which this data element could apply are: • most swaps and swap-like contracts including interest rate swaps, credit total return swaps, and equity swaps (except for credit default swaps, variance, volatility, and correlation swaps) • foreign exchange swaps, forwards, non-deliverable forwards	✓	✓	✓	✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		This data element is not applicable to instrument types covered by data elements Buyer identifier and Seller identifier.					
22	Submitter identifier	Identifier of the entity submitting the data to the swap data repository (SDR). The Submitter identifier will be the same as the reporting counterparty or swap execution facility (SEF), unless they use a third-party service provider to submit the data to SDR in which case, report the identifier of the third-party service provider.	✓	✓	✓	✓	✓
	Category: Custom baskets						
23	Custom basket indicator	Indicator that the swap is based on a custom basket.	✓	✓	✓	✓	✓
	Category: Events						
24	Action type	Type of action taken on the transaction reporting or end of day reporting. **New**: An action that reports a new swap transaction. It applies to the first message relating to a new USI or UTI. **Modify**: An action that modifies the state of a previously submitted transaction (e.g., credit event) or changes a term of a previously submitted transaction due to a newly negotiated modification (amendment) or updates previously missing information (e.g., post price swap). It does not include correction of a previous transaction. **Correct**: An action that corrects erroneous data of a previously submitted transaction. **Error**: An action of cancellation of a wrongly submitted entire transaction in case it never came into existence or was not subject to part 43/part 45 reporting requirements but was reported erroneously. **Terminate**: An action that closes an existing transaction because of a new event (e.g., Compression, Novation). This does not apply to transactions that terminate at contractual maturity date. **Port out**: An action that transfers swap transaction from one SDR to another SDR (change of swap data repository). **Valuation**: An update to valuation data. There will be no corresponding Event type. **Collateral**: An update to collateral margin data. There will be no corresponding Event type. Refer to appendix F for event model sample scenarios.	✓	✓	✓	✓	✓
25	Event type	Explanation or reason for the action being taken on the transaction reporting. **Trade**: A creation, modification, or termination of a transaction. **Novation**: A novation legally moves partial or all of the financial risks of a swap from a transferor to a transferee and has the effect of terminating/modifying	✓	✓	✓	✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		the original transaction and creating a new transaction to identify the exposure between the transferor/transferee and remaining party. **Compression or Risk Reduction Exercise**: Compressions and risk reduction exercises generally have the effect of terminating or modifying (i.e., reducing the notional value) a set of existing transactions and of creating a set of new transaction(s). These processes result in largely the same exposure of market risk that existed prior to the event for the counterparty. **Early termination**: Termination of an existing swap transaction prior to scheduled termination or maturity date. **Clearing**: Central clearing is a process where a derivatives clearing organization interposes itself between counterparties to contracts, becoming the buyer to every seller and the seller to every buyer. It has the effect of terminating an existing transaction between the buyer and the seller and thereby ensuring the performance of open contracts. **Exercise**: The process by which a counterparty fully or partially exercises their rights specified in the contract of an option or a swaption. **Allocation**: The process by which an agent, having facilitated a single swap transaction on behalf of several clients, allocates a portion of the executed swap to the clients. **Clearing and Allocation:** A simultaneous clearing and allocation event in a derivatives clearing organization. **CDS Credit**: An event or trigger that results in the modification of the state of a previously submitted credit derivative transaction. Applies only to credit derivatives. **Porting**: The process by which a swap is transferred to another SDR that r has the effect of the closing of the swap transaction at one SDR or opening of the same swap transaction using the same UTI/USI in a different SDR (new).					
26	Event identifier	Unique identifier to link transactions resulting when Event type is either COMP (Compression) or CRDT (CDS Credit). The unique identifier may be assigned by the reporting counterparty or a service provider.	✓	✓	✓	✓	✓
27	Event timestamp	Date and time of occurrence of the event as determined by the reporting counterparty or a service provider. In the case of a clearing event, date and time when the original swap is accepted by the derivatives clearing organization (DCO) for clearing and recorded by the DCO's system should be reported in this data element. The time element is as specific as technologically practicable.	✓	✓	✓	✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
	Category: Notional amounts and quantities						
28	Notional amount	For each leg of the transaction, where applicable: - for OTC derivative transactions negotiated in monetary amounts, amount specified in the contract. - for OTC derivative transactions negotiated in non-monetary amounts, refer to appendix B for converting notional amounts for non-monetary amounts. In addition: • For OTC derivative transactions with a notional amount schedule, the initial notional amount, agreed by the counterparties at the inception of the transaction, is reported in this data element. • For OTC foreign exchange options, in addition to this data element, the amounts are reported using the data elements Call amount and Put amount. For amendments or lifecycle events, the resulting outstanding notional amount is reported; (steps in notional amount schedules are not considered to be amendments or lifecycle events); • Where the notional amount is not known when a new transaction is reported, the notional amount is updated as it becomes available.	✓	✓	✓	✓	✓
29	Notional currency	For each leg of the transaction, where applicable: currency in which the notional amount is denominated.	✓	✓	✓	✓	✓
30	Delta	The ratio of the absolute change in price of an OTC derivative transaction to the change in price of the underlier, at the time a new transaction is reported or when a change in the notional amount is reported.	✓	✓	✓	✓	✓
31	Call amount	For foreign exchange options, the monetary amount that the option gives the right to buy.			✓		
32	Call currency	For foreign exchange options, the currency in which the Call amount is denominated.			✓		
33	Put amount	For foreign exchange options, the monetary amount that the option gives the right to sell.			✓		
34	Put currency	For foreign exchange options, the currency in which the Put amount is denominated.			✓		
35	Notional quantity	For each leg of the transaction, where applicable, for swap transactions negotiated in non-monetary amounts with fixed notional quantity for each schedule period (i.e., 50 barrels per month). The frequency is reported in Quantity frequency and the unit of measure is reported in Quantity unit of measure.					✓
36	Quantity frequency	The rate at which the quantity is quoted on the swap. e.g., hourly, daily, weekly, monthly.					✓
37	Quantity frequency multiplier	The number of time units for the Quantity frequency					✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
38	Quantity unit of measure	For each leg of the transaction, where applicable: unit of measure in which the Total notional quantity and Notional quantity are expressed.				✓	✓
39	Total notional quantity	For each leg of the transaction, where applicable: aggregate Notional quantity of the underlying asset for the term of the transaction. Where the Total notional quantity is not known when a new transaction is reported, the Total notional quantity is updated as it becomes available.				✓	✓
	Category: Packages						
40	Package identifier	Identifier (determined by the reporting counterparty) in order to connect • two or more transactions that are reported separately by the reporting counterparty, but that are negotiated together as the product of a single economic agreement. • two or more reports pertaining to the same transaction whenever jurisdictional reporting requirement does not allow the transaction to be reported with a single report to TRs. A package may include reportable and non-reportable transactions. This data element is not applicable • if no package is involved, or • to allocations Where the Package identifier is not known when a new transaction is reported, the Package identifier is updated as it becomes available.	✓	✓	✓	✓	✓
41	Package transaction price	Traded price of the entire package in which the reported derivative transaction is a component. This data element is not applicable if no package is involved. Prices and related data elements of the transactions (Price currency, Price notation, Price unit of measure) that represent individual components of the package are reported when available. The Package transaction price may not be known when a new transaction is reported but may be updated later.	✓	✓	✓	✓	✓
42	Package transaction price currency	Currency in which the Package transaction price is denominated. This data element is not applicable if: • no package is involved, or • Package transaction price notation = 3	✓	✓	✓	✓	✓
43	Package transaction price notation	Manner in which the Package transaction price is expressed. This data element is not applicable if no package is involved	✓	✓	✓	✓	✓
	Category: Payments						
44	Day count convention	For each leg of the transaction, where applicable: day count convention (often also referred to as day count fraction or day count basis or day count method) that determines how interest payments are calculated. It is used to compute the year fraction of the calculation	✓	✓	✓	✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		period, and indicates the number of days in the calculation period divided by the number of days in the year.					
45	Fixing date	Describes the specific date when a non-deliverable forward as well as various types of FX OTC options such as cash-settled options that will "fix" against a particular exchange rate, which will be used to compute the ultimate cash settlement.			✓		
46	Floating rate reset frequency period	For each floating leg of the transaction, where applicable, time unit associated with the frequency of resets, e.g., day, week, month, year or term of the stream.	✓	✓	✓	✓	✓
47	Floating rate reset frequency period multiplier	For each floating leg of the transaction, where applicable, number of time units (as expressed by the Floating rate reset frequency period) that determines the frequency at which periodic payment dates for reset occur. For example, a transaction with reset payments occurring every two months is represented with a Floating rate reset frequency period of "MNTH" (monthly) and a Floating rate reset frequency period multiplier of 2. This data element is not applicable if the Floating rate reset frequency period is "ADHO." If Floating rate reset frequency period is "TERM," then the Floating rate reset frequency period multiplier is 1. If the reset frequency period is intraday, then the Floating rate reset frequency period is "DAIL" and the Floating rate reset frequency period multiplier is 0.	✓	✓	✓	✓	✓
48	Other payment type	Type of Other payment amount. Option premium payment is not included as a payment type as premiums for option are reported using the option premium dedicated data element.	✓	✓	✓	✓	✓
49	Other payment amount	Payment amounts with corresponding payment types to accommodate requirements of transaction descriptions from different asset classes.	✓	✓	✓	✓	✓
50	Other payment currency	Currency in which Other payment amount is denominated.	✓	✓	✓	✓	✓
51	Other payment date	Unadjusted date on which the Other payment amount is paid.	✓	✓	✓	✓	✓
52	Other payment payer	Identifier of the payer of Other payment amount.	✓	✓	✓	✓	✓
53	Other payment receiver	Identifier of the receiver of Other payment amount.	✓	✓	✓	✓	✓
54	Payment frequency period	For each leg of the transaction, where applicable: time unit associated with the frequency of payments, e.g., day, week, month, year or term of the stream.	✓	✓		✓	✓
55	Payment frequency period multiplier	For each leg of the transaction, where applicable: number of time units (as expressed by the Payment frequency period) that determines the frequency at which periodic payment dates occur. For example, a transaction with payments occurring every two months is represented with a Payment frequency period of	✓	✓		✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		"MNTH" (monthly) and a Payment frequency period multiplier of 2. This data element is not applicable if the Payment frequency period is "ADHO." If Payment frequency period is "TERM," then the Payment frequency period multiplier is 1. If the Payment frequency is intraday, then the Payment frequency period is "DAIL" and the Payment frequency multiplier is 0.					
	Category: Prices						
56	Exchange rate	Exchange rate between the two different currencies specified in the OTC derivative transaction agreed by the counterparties at the inception of the transaction, expressed as the rate of exchange from converting the unit currency into the quoted currency. In the example 0.9426 USD/EUR, USD is the unit currency and EUR is the quoted currency; USD 1 = EUR 0.9426.			✓		
57	Exchange rate basis	Currency pair and order in which the exchange rate is denominated, expressed as unit currency/quoted currency. In the example 0.9426 USD/EUR, USD is the unit currency and EUR is the quoted currency, USD 1 = EUR 0.9426.			✓		
58	Fixed rate	For each leg of the transaction, where applicable: for OTC derivative transactions with periodic payments, per annum rate of the fixed leg(s).	✓	✓			✓
59	Post-priced swap indicator	An indication of whether a transaction satisfies the definition of "post-priced swap" in § 43.2(a) of the Commission's regulations.	✓	✓	✓	✓	✓
60	Price	Price specified in the OTC derivative transaction. It does not include fees, taxes or commissions. For commodity fixed/float swaps and similar products with periodic payments, this data element refers to the fixed price of the fixed leg(s). For commodity and equity forwards and similar products, this data element refers to the forward price of the underlying or reference asset. For equity swaps, portfolios swaps, and similar products, this data element refers to the initial price of the underlying or reference asset. For contracts for difference and similar products, this data element refers to the initial price of the underlier. This data element is not applicable to: • Interest rate swaps and forward rate agreements, as it is understood that the information included in the data elements Fixed rate and Spread may be interpreted as the price of the transaction. • Interest rate options and interest rate swaptions as it is understood that the information included in the data elements Strike price and Option premium may be interpreted as the price of the transaction. • Commodity basis swaps and the floating leg of commodity fixed/float swaps as it is understood that				✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		the information included in the data element Spread may be interpreted as the price of the transaction. • Foreign exchange swaps, forwards and options, as it is understood that the information included in the data elements Exchange rate, Strike price, and Option premium may be interpreted as the price of the transaction. • Equity options as it is understood that the information included in the data elements Strike price and Option premium may be interpreted as the price of the transaction. • Credit default swaps and credit total return swaps, as it is understood that the information included in the data elements Fixed rate, Spread and Upfront payment (Other payment type: Upfront payment) may be interpreted as the price of the transaction. • Commodity options, as it is understood that the information included in the data elements Strike price and Option premium may be interpreted as the price of the transaction. Where the price is not known when a new transaction is reported, the price is updated as it becomes available. For transactions that are part of a package, this data element contains the price of the component transaction where applicable.					
61	Price currency	Currency in which the price is denominated. Price currency is only applicable if Price notation = 1.				✓	✓
62	Price notation	Manner in which the price is expressed.				✓	✓
63	Price unit of measure	Unit of measure in which the price is expressed.				✓	✓
64	Spread	For each leg of the transaction, where applicable: for OTC derivative transactions with periodic payments (e.g., interest rate fixed/float swaps, interest rate basis swaps, commodity swaps), • spread on the individual floating leg(s) index reference price, in the case where there is a spread on a floating leg(s). For example, USD-LIBOR-BBA plus .03 or WTI minus USD 14.65; or • difference between the reference prices of the two floating leg indexes. For example, the 9.00 USD "Spread" for a WCS vs. WTI basis swap where WCS is priced at 43 USD and WTI is priced at 52 USD.	✓	✓		✓	✓
65	Spread currency	For each leg of the transaction, where applicable: currency in which the spread is denominated. This data element is only applicable if Spread notation = 1.	✓	✓		✓	✓
66	Spread notation	For each leg of the transaction, where applicable: manner in which the spread is expressed.	✓	✓		✓	✓
67	Strike price	• For options other than FX options, swaptions and similar products, price at which the owner of an option can buy or sell the underlying asset of the option. • For foreign exchange options, exchange rate at which	✓	✓	✓	✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		the option can be exercised, expressed as the rate of exchange from converting the unit currency into the quoted currency. In the example 0.9426 USD/EUR, USD is the unit currency and EUR is the quoted currency; USD 1 = EUR 0.9426. Where the strike price is not known when a new transaction is reported, the strike price is updated as it becomes available. • For volatility and variance swaps and similar products, the volatility strike price is reported in this data element.					
68	Strike price currency/currency pair	For equity options, commodity options, and similar products, currency in which the strike price is denominated. For foreign exchange options: Currency pair and order in which the strike price is expressed. It is expressed as unit currency/quoted currency. In the example 0.9426 USD/EUR, USD is the unit currency and EUR is the quoted currency, USD 1 = EUR 0.9426 Strike price currency/currency pair is only applicable if Strike price notation = 1.	✓	✓	✓	✓	✓
69	Strike price notation	Manner in which the strike price is expressed.	✓	✓	✓	✓	✓
70	Option premium amount	For options and swaptions of all asset classes, monetary amount paid by the option buyer. This data element is not applicable if the instrument is not an option or does not embed any optionality.	✓	✓	✓	✓	✓
71	Option premium currency	For options and swaptions of all asset classes, currency in which the option premium amount is denominated. This data element is not applicable if the instrument is not an option or does not embed any optionality.	✓	✓	✓	✓	✓
72	Option premium payment date	Unadjusted date on which the option premium is paid.	✓	✓	✓	✓	✓
73	First exercise date	First unadjusted date during the exercise period in which an option can be exercised. For European-style options, this date is same as the Expiration date. For American-style options, the first possible exercise date is the unadjusted date included in the Execution timestamp. For knock-in options, where the first exercise date is not known when a new transaction is reported, the first exercise date is updated as it becomes available. This data element is not applicable if the instrument is not an option or does not embed any optionality.	✓	✓	✓	✓	✓
	Category: Product						
74	CDS index attachment point	Defined lower point at which the level of losses in the underlying portfolio reduces the notional of a tranche. For example, the notional in a tranche with an attachment point of 3% will be reduced after 3% of losses in the portfolio have occurred. This data element is not applicable if the transaction is not a CDS tranche transaction (index or custom basket).	✓				

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
75	CDS index detachment point	Defined point beyond which losses in the underlying portfolio no longer reduce the notional of a tranche. For example, the notional in a tranche with an attachment point of 3% and a detachment point of 6% will be reduced after there have been 3% of losses in the portfolio. 6% losses in the portfolio deplete the notional of the tranche. This data element is not applicable if the transaction is not a CDS tranche transaction (index or custom basket).	✓				
76	Index factor	The index version factor or percent, expressed as a decimal value, that multiplied by the Notional amount yields the notional amount covered by the seller of protection for credit default swap.	✓				
77	Embedded option type	Type of option or optional provision embedded in a contract.	✓	✓	✓	✓	✓
78	Unique product identifier	A unique set of characters that represents a particular OTC derivative. The Commission will designate a UPI pursuant to § 45.7.	✓	✓	✓	✓	✓
	Category: Settlement						
79	Final contractual settlement date	Unadjusted date as per the contract, by which all transfer of cash or assets should take place and the counterparties should no longer have any outstanding obligations to each other under that contract. For products that may not have a final contractual settlement date (e.g., American options), this data element reflects the date by which the transfer of cash or asset would take place if termination were to occur on the expiration date.	✓	✓	✓	✓	✓
80	Settlement currency	Currency for the cash settlement of the transaction when applicable. For multi-currency products that do not net, the settlement currency of each leg. This data element is not applicable for physically settled products (e.g., physically settled swaptions).	✓	✓	✓	✓	✓
	Category: Transaction related						
81	Allocation indicator	Indicator of whether the swap transaction is intended to be allocated, will not be allocated, or is a post allocation transaction.	✓	✓	✓	✓	✓
82	Non-standardized term indicator	Indicator of whether the swap has one or more additional term(s) or provision(s), other than those disseminated to the public pursuant to part 43, that materially affect(s) the price of the swap.	✓	✓	✓	✓	✓
83	Block trade election indicator	Indicator of whether an election has been made to report the swap as a block swap either by the reporting counterparty or as calculated by the swap data repository acting as a third party for the reporting counterparty.	✓	✓	✓	✓	✓
84	Effective date	Unadjusted date at which obligations under the OTC derivative transaction come into effect, as included in the confirmation.	✓	✓	✓	✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
85	Expiration date	Unadjusted date at which obligations under the swap transaction stop being effective, as included in the confirmation. Early termination does not affect this data element.	✓	✓	✓	✓	✓
86	Execution timestamp	Date and time a transaction was originally executed, resulting in the generation of a new UTI. This data element remains unchanged throughout the life of the UTI.	✓	✓	✓	✓	✓
87	Reporting timestamp	Date and time of the submission of the report to the trade repository.	✓	✓	✓	✓	✓
88	Platform identifier	Identifier of the trading facility (e.g., exchange, multilateral trading facility, swap execution facility) on which the transaction was executed.	✓	✓	✓	✓	✓
89	Prime brokerage transaction identifier	Identifier in order to connect the prime broker executing broker ("PB-ED") swap and the prime-broker counterparty(ies) swap(s) ("PB-CP") in a Prime Brokerage transaction. The reporting counterparty to a PB-CP swap(s) shall identify that swap as part of a Prime Brokerage transaction by reporting the USI or UTI of the "PB-ED" swap in the Prime brokerage transaction identifier data element.	✓	✓	✓	✓	✓
90	Prime brokerage transaction indicator	Indicator of whether the swap is a Prime Brokerage transaction.	✓	✓	✓	✓	✓
91	Prior USI (for one-to-one and one-to-many relations between transactions)	Unique swap identifier (USI) assigned to the predecessor transaction that has given rise to the reported transaction due to a lifecycle event, in a one-to-one relation between transactions (e.g., in the case of a novation, when a transaction is terminated, and a new transaction is generated) or in a one-to-many relation between transactions (e.g., in clearing or if a transaction is split into several different transactions). This data element is not applicable when reporting many-to-one and many-to-many relations between transactions (e.g., in the case of a compression).	✓	✓	✓	✓	✓
92	Prior UTI (for one-to-one and one-to-many relations between transactions)	UTI assigned to the predecessor transaction that has given rise to the reported transaction due to a lifecycle event, in a one-to-one relation between transactions (e.g., in the case of a novation, when a transaction is terminated, and a new transaction is generated) or in a one-to-many relation between transactions (e.g., in clearing or if a transaction is split into several different transactions). This data element is not applicable when reporting many-to-one and many-to-many relations between transactions (e.g., in the case of a compression).	✓	✓	✓	✓	✓
93	Unique swap identifier (USI)	The USI is a unique identifier assigned to all swap transactions which identifies the transaction (the swap and its counterparties) uniquely throughout its duration. It consists of a namespace and a transaction identifier.	✓	✓	✓	✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
94	Unique transaction identifier (UTI)	See Technical Guidance - Harmonisation of the Unique Transaction Identifier.	✓	✓	✓	✓	✓
95	Jurisdiction indicator	The jurisdiction(s) that is requiring the reporting of the transaction.	✓	✓	✓	✓	✓
	Category: Transfer						
96	New SDR identifier	Identifier of the new swap data repository where the transaction is transferred to.	✓	✓	✓	✓	✓
	Category: Valuation						
97	Last floating reference value	The most recent sampling of the value of the floating reference for the purposes of determining cashflow. Ties to Last floating reference reset date data element.	✓	✓	✓	✓	✓
98	Last floating reference reset date	The date of the most recent sampling of the floating reference for the purposes of determining cashflow. Ties to Last floating reference value data element.	✓	✓	✓	✓	✓
99	Valuation amount	Current value of the outstanding contract. Valuation amount is expressed as the exit cost of the contract or components of the contract, i.e., the price that would be received to sell the contract (in the market in an orderly transaction at the valuation date).	✓	✓	✓	✓	✓
100	Valuation currency	Currency in which the valuation amount is denominated.	✓	✓	✓	✓	✓
101	Valuation method	Source and method used for the valuation of the transaction by the reporting counterparty. If at least one valuation input is used that is classified as mark-to-model in appendix D, then the whole valuation is classified as mark-to-model. If only inputs are used that are classified as mark-to-market in appendix D, then the whole valuation is classified as mark-to-market.	✓	✓	✓	✓	✓
102	Valuation timestamp	Date and time of the last valuation marked to market, provided by the central counterparty (CCP) or calculated using the current or last available market price of the inputs. If for example a currency exchange rate is the basis for a transaction's valuation, then the valuation timestamp reflects the moment in time that exchange rate was current.	✓	✓	✓	✓	✓
	Category: Collateral and margins						
103	Affiliated counterparty for margin and capital indicator	Indicator of whether the current counterparty is deemed an affiliate for the purposes of U.S. margin and capital rules (as per § 23.159).	✓	✓	✓	✓	✓
104	Collateralisation category	Indicator of whether a collateral agreement (or collateral agreements) between the counterparties exists (uncollateralised/partially collateralised/one-way collateralised/fully collateralised). This data element is provided for each transaction or each portfolio, depending on whether the collateralisation is performed at the transaction or portfolio level, and is applicable to both cleared and uncleared transactions.	✓	✓	✓	✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
105	Collateral portfolio code	If collateral is reported on a portfolio basis, unique code assigned by the reporting counterparty to the portfolio.	✓	✓	✓	✓	✓
106	Portfolio containing non-reportable component indicator	If collateral is reported on a portfolio basis, indicator of whether the collateral portfolio includes transactions exempt from reporting.	✓	✓	✓	✓	✓
107	Initial margin posted by the reporting counterparty (post-haircut)	Monetary value of initial margin that has been posted by the reporting counterparty, including any margin that is in transit and pending settlement unless inclusion of such margin is not allowed under the jurisdictional requirements. If the collateralisation is performed at portfolio level, the initial margin posted relates to the whole portfolio; if the collateralisation is performed for single transactions, the initial margin posted relates to such single transaction. This refers to the total current value of the initial margin after application of the haircut (if applicable), rather than to its daily change. The data element refers both to uncleared and centrally cleared transactions. For centrally cleared transactions, the data element does not include default fund contributions, nor collateral posted against liquidity provisions to the central counterparty, i.e., committed credit lines. If the initial margin posted is denominated in more than one currency, those amounts are converted into a single currency chosen by the reporting counterparty and reported as one total value.	✓	✓	✓	✓	✓
108	Initial margin posted by the reporting counterparty (pre-haircut)	Monetary value of initial margin that has been posted by the reporting counterparty, including any margin that is in transit and pending settlement unless inclusion of such margin is not allowed under the jurisdictional requirements. If the collateralisation is performed at portfolio level, the initial margin posted relates to the whole portfolio; if the collateralisation is performed for single transactions, the initial margin posted relates to such single transaction. This refers to the total current value of the initial margin, rather than to its daily change. The data element refers both to uncleared and centrally cleared transactions. For centrally cleared transactions, the data element does not include default fund contributions, nor collateral posted against liquidity provisions to the central counterparty, i.e., committed credit lines. If the initial margin posted is denominated in more than one currency, those amounts are converted into a single currency chosen by the reporting counterparty and reported as one total value.	✓	✓	✓	✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
109	Currency of initial margin posted	Currency in which the initial margin posted is denominated. If the initial margin posted is denominated in more than one currency, this data element reflects one of those currencies into which the reporting counterparty has chosen to convert all the values of posted initial margins.	✓	✓	✓	✓	✓
110	Initial margin collected by the reporting counterparty (post-haircut)	Monetary value of initial margin that has been collected by the reporting counterparty, including any margin that is in transit and pending settlement unless inclusion of such margin is not allowed under the jurisdictional requirements. If the collateralisation is performed at portfolio level, the initial margin collected relates to the whole portfolio; if the collateralisation is performed for single transactions, the initial margin collected relates to such single transaction. This refers to the total current value of the initial margin after application of the haircut (if applicable), rather than to its daily change. The data element refers both to uncleared and centrally cleared transactions. For centrally cleared transactions, the data element does not include collateral collected by the central counterparty as part of its investment activity. If the initial margin collected is denominated in more than one currency, those amounts are converted into a single currency chosen by the reporting counterparty and reported as one total value.	✓	✓	✓	✓	✓
111	Initial margin collected by the reporting counterparty (pre-haircut)	Monetary value of initial margin that has been collected by the reporting counterparty, including any margin that is in transit and pending settlement unless inclusion of such margin is not allowed under the jurisdictional requirements. If the collateralisation is performed at portfolio level, the initial margin collected relates to the whole portfolio; if the collateralisation is performed for single transactions, the initial margin collected relates to such single transaction. This refers to the total current value of the initial margin, rather than to its daily change. The data element refers both to uncleared and centrally cleared transactions. For centrally cleared transactions, the data element does not include collateral collected by the central counterparty as part of its investment activity. If the initial margin collected is denominated in more than one currency, those amounts are converted into a single currency chosen by the reporting counterparty and reported as one total value.	✓	✓	✓	✓	✓
112	Currency of initial margin collected	Currency in which the initial margin collected is denominated. If the initial margin collected is denominated in more	✓	✓	✓	✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		than one currency, this data element reflects one of those currencies into which the reporting counterparty has chosen to convert all the values of collected initial margins.					
113	Variation margin posted by the reporting counterparty (pre-haircut)	Monetary value of the variation margin posted by the reporting counterparty (including the cash-settled one), and including any margin that is in transit and pending settlement unless inclusion of such margin is not allowed under the jurisdictional requirements. Contingent variation margin is not included. If the collateralisation is performed at portfolio level, the variation margin posted relates to the whole portfolio; if the collateralisation is performed for single transactions, the variation margin posted relates to such single transaction. This data element refers to the total current value of the variation margin, cumulated since the first reporting of variation margins posted for the portfolio/transaction If the variation margin posted is denominated in more than one currency, those amounts are converted into a single currency chosen by the reporting counterparty and reported as one total value.	✓	✓	✓	✓	✓
114	Currency of variation margin posted	Currency in which the variation margin posted is denominated. If the variation margin posted is denominated in more than one currency, this data element reflects one of those currencies into which the reporting counterparty has chosen to convert all the values of posted variation margins.	✓	✓	✓	✓	✓
115	Variation margin collected by the reporting counterparty (pre-haircut)	Monetary value of the variation margin collected by the reporting counterparty (including the cash-settled one), and including any margin that is in transit and pending settlement unless inclusion of such margin is not allowed under the jurisdictional requirements. Contingent variation margin is not included. If the collateralisation is performed at portfolio level, the variation margin collected relates to the whole portfolio; if the collateralisation is performed for single transactions, the variation margin collected relates to such single transaction. This refers to the total current value of the variation margin, cumulated since the first reporting of collected variation margins for the portfolio/ transaction. If the variation margin collected is denominated in more than one currency, those amounts are converted into a single currency chosen by the reporting counterparty and reported as one total value.	✓	✓	✓	✓	✓
116	Currency of variation margin collected	Currency in which the variation margin collected is denominated. If the variation margin collected is denominated in more than one currency, this data element reflects one of those currencies into which the reporting	✓	✓	✓	✓	✓

	Data Element Name	Definition for Data Element	Asset Class				
			CR	IR	FX	EQ	CO
		counterparty has chosen to convert all the values of collected variation margins.					

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PART 46—SWAP DATA RECORDKEEPING AND REPORTING REQUIREMENTS: PRE-ENACTMENT AND TRANSITION SWAPS

■ 16. The authority citation for part 46 continues to read as follows:

Authority: Title VII, sections 723 and 729, Pub. L. 111–203, 124 Stat. 1738.

■ 17. In part 46, revise all references to ''non-SD/MSP'' to read ''non-SD/MSP/DCO''.

§ § 46.3, 46.4, 46.5, 46.6, 46.8, 46.9, 46.10, and 46.11 [Amended]

■ 18. In the table below, for each section and paragraph indicated in the left column, remove the term indicated in the middle column from wherever it appears in the section or paragraph, and add in its place the term indicated in the right column:

Section/Paragraph	Remove	Add
46.3(a)(1)(iii)(A)	counterparty; and	counterparty.
46.3(a)(3)	first report of required swap creation data	first report of such data.
46.4 (introductory text)	swap data reporting	data reporting.
46.4(a)	substitute counterparty identifier as provided in § 45.6(f) of this chapter	substitute counterparty identifier.
46.4(d)	unique swap identifier and unique product identifier	unique swap identifier, unique transaction identifier, and unique product identifier.
46.5(a)	swap data	data.
46.6 (introductory text)	report swap data	report data.
46.8(a)	accepts swap data	accepts data for pre-enactment and transition swaps.
46.8(a)	required swap creation data or required swap continuation data	such data.
46.8(c)(2)(ii)	reporting entities	registered entities.
46.8(d)	swap data reporting	reporting data for pre-enactment and transition swaps.
46.9(a)	any report of swap data	any report of data.
46.9(f)	errors in the swap data	errors in the data for a pre-enactment or a transition swap.
46.10	reporting swap data	reporting data for a pre-enactment or a transition swap.
46.11(a)	report swap data	report data for a pre-enactment or a transition swap.

■ 19. Amend § 46.1 by:
■ a. Revising the introductory text and redesignating it as paragraph (a);
■ b. Removing the definitions of ''credit swap''; ''foreign exchange forward''; ''foreign exchange instrument''; ''foreign exchange swap''; ''interest rate swap''; ''international swap''; ''major swap participant''; ''other commodity swap''; ''swap data repository''; and ''swap dealer'';
■ c. Revising the definitions of ''asset class''; ''non-SD/MSP counterparty''; ''reporting counterparty''; ''required swap continuation data'';
■ d. Adding, in alphabetical order, definitions for ''historical swaps'' and ''substitute counterparty identifier''; and
■ e. Adding paragraph (b).

The revisions and additions read as follows:

§ 46.1 Definitions.

(a) As used in this part:

Asset class means a broad category of commodities, including, without limitation, any ''excluded commodity'' as defined in section 1a(19) of the Act, with common characteristics underlying a swap. The asset classes include interest rate, foreign exchange, credit, equity, other commodity, and such other asset classes as may be determined by the Commission.

* * * * *

Historical swap means pre-enactment swaps and transition swaps.

* * * * *

Non-SD/MSP/DCO counterparty means a swap counterparty that is not a swap dealer, major swap participant, or derivatives clearing organization.

* * * * *

Reporting counterparty means the counterparty required to report data for a pre-enactment swap or a transition swap pursuant to this part, selected as provided in § 46.5.

Required swap continuation data means all of the data elements that shall be reported during the existence of a swap as required by part 45 of this chapter.

Substitute counterparty identifier means a unique alphanumeric code assigned by a swap data repository to a swap counterparty prior to the Commission designation of a legal entity identifier system on July 23, 2012.

* * * * *

(b) *Other defined terms.* Terms not defined in this part have the meanings assigned to the terms in § 1.3 of this chapter.

■ 20. In § 46.3, revise paragraph (a)(2)(i) to read as follows:

§ 46.3 Data reporting for pre-enactment swaps and transition swaps.

(a) * * *

(2) * * *

(i) For each uncleared pre-enactment or transition swap in existence on or after April 25, 2011, throughout the existence of the swap following the compliance date, the reporting counterparty must report all required swap continuation data as required by part 45 of this chapter.

* * * * *

■ 21. In § 46.10, add a second sentence to read as follows:

§ 46.10 Required data standards.

* * * In reporting required swap continuation data as required by this part, each reporting counterparty shall

comply with the required data standards set forth in part 45 of this chapter, including those set forth in § 45.13(a) of this chapter.

■ 22. Amend § 46.11 by:

■ a. Removing paragraph (b);

■ b. Redesignating paragraph (c) as paragraph (b) and revising it; and

■ c. Redesignating paragraph (d) as paragraph (c).

The revision reads as follows:

§ 46.11 Reporting of errors and omissions in previously reported data.

* * * * *

(b) Each counterparty to a pre-enactment or transition swap that is not the reporting counterparty as determined pursuant to § 46.5, and that discovers any error or omission with respect to any data for a pre-enactment or transition swap reported to a swap data repository for that swap, shall promptly notify the reporting counterparty of each such error or omission. As soon as technologically practicable after receiving such notice, the reporting counterparty shall report a correction of each such error or omission to the swap data repository.

* * * * *

PART 49—SWAP DATA REPOSITORIES

■ 23. The authority citation for part 49 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2(a), 6r, 12a, and 24a, as amended by Title VII of the Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (Jul. 21, 2010), unless otherwise noted.

§ 49.4 [Amended]

■ 24. In the table below, for each section and paragraph indicated in the left column, remove the term indicated in the middle column from wherever it appears in the section or paragraph, and add in its place the term indicated in the right column:

Section/paragraph	Remove	Add
49.4(a)(1)	registered swap data repository	swap data repository.
49.4(a)(1)	registrant	swap data repository.
49.4(a)(1)	withdrawn, which notice	withdrawn. Such.
49.4(a)(1)	sixty	60.
49.4(a)(1)(i)	registrant	swap data repository.
49.4(a)(1)(ii)	registrant;	swap data repository; and.
49.4(a)(1)(iii)	located; and	located.
49.4(c)	registered swap data repository	swap data repository.

■ 25. In § 49.2(a), remove the paragraph designations and arrange the definitions, in alphabetical order, and add, in alphabetical order, definitions for the terms ''data validation acceptance message''; ''data validation error''; ''data validation error message''; and ''data validation procedures'' to read as follows:

§ 49.2 Definitions.

(a) * * *

Data validation acceptance message. The term ''data validation acceptance message'' means a notification that SDR data satisfied the data validation procedures applied by a swap data repository.

Data validation error. The term ''data validation error'' means that a specific data element of SDR data did not satisfy the data validation procedures applied by a swap data repository.

Data validation error message. The term ''data validation error message'' means a notification that SDR data contained one or more data validation error(s).

Data validation procedures. The term ''data validation procedures'' means procedures established by a swap data repository pursuant to § 49.10 to validate SDR data reported to the swap data repository.

* * * * *

■ 26. In § 49.4, remove paragraph (a)(1)(iv) and revise paragraph (a)(2).

The revision reads as follows:

§ 49.4 Withdrawal from registration.

* * * * *

(a) * * *

(2) Prior to filing a request to withdraw, a swap data repository shall execute an agreement with the custodial swap data repository governing the custody of the withdrawing swap data repository's data and records. The custodial swap data repository shall retain such records for at least as long as the remaining period of time the swap data repository withdrawing from registration would have been required to retain such records pursuant to this part.

* * * * *

■ 27. In § 49.10, revise paragraphs (a) through (d) and add reserved paragraph (e) and paragraph (f) to read as follows:

§ 49.10 Acceptance and validation of data.

(a) *General requirements.* (1) *Generally.* A swap data repository shall establish, maintain, and enforce policies and procedures reasonably designed to facilitate the complete and accurate reporting of SDR data. A swap data repository shall promptly accept, validate, and record SDR data.

(2) *Electronic connectivity.* For the purpose of accepting SDR data, the swap data repository shall adopt policies and procedures, including technological protocols, which provide for electronic connectivity between the swap data repository and designated contract markets, derivatives clearing organizations, swap execution facilities, swap dealers, major swap participants and non-SD/MSP/DCO reporting counterparties who report such data. The technological protocols established by a swap data repository shall provide for the receipt of SDR data. The swap data repository shall ensure that its mechanisms for SDR data acceptance are reliable and secure.

(b) *Duty to accept SDR data.* A swap data repository shall set forth in its application for registration as described in § 49.3 the specific asset class or classes for which it will accept SDR data. If a swap data repository accepts SDR data of a particular asset class, then it shall accept SDR data from all swaps of that asset class, unless otherwise prescribed by the Commission.

(c) *Duty to validate SDR data.* A swap data repository shall validate SDR data as soon as technologically practicable after such data is accepted according to the validation conditions approved in writing by the Commission. A swap data repository shall validate SDR data by providing data validation acceptance messages, data validation messages, as provided below.

(1) *Data validation acceptance message.* A swap data repository shall validate each SDR data report submitted to the swap data repository and notify the reporting counterparty, swap execution facility, designated contract market, or third party service provider submitting the report whether the report

satisfied the data validation procedures of the swap data repository as soon as technologically practicable after accepting the SDR data report.

(2) *Data validation error message.* If SDR data contains one or more data validation errors, the swap data repository shall distribute a data validation error message to the designated contract market, swap execution facility, reporting counterparty, or third-party service provider that submitted such SDR data as soon as technologically practicable after acceptance of such data. Each data validation error message shall indicate which specific data validation error(s) was identified in the SDR data.

(3) *Swap transaction and pricing data submitted with swap data.* If a swap data repository allows for the joint submission of swap transaction and pricing data and swap data, the swap data repository shall validate the swap transaction and pricing data and swap data separately. Swap transaction and pricing data that satisfies the data validation procedures applied by a swap data repository shall not be deemed to contain a data validation error because it was submitted to the swap data repository jointly with swap data that contained a data validation error.

(d) *Policies and procedures to prevent invalidation or modification.* A swap data repository shall establish policies and procedures reasonably designed to prevent any provision in a valid swap from being invalidated or modified through the verification or recording process of the swap data repository. The policies and procedures shall ensure that the swap data repository's user agreements are designed to prevent any such invalidation or modification.

(e) [Reserved].

(f) *Policies and procedures for resolving disputes regarding data accuracy.* A swap data repository shall establish procedures and provide facilities for effectively resolving disputes over the accuracy of the SDR data and positions that are recorded in the swap data repository.

Issued in Washington, DC, on February 27, 2020, by the Commission.

Christopher Kirkpatrick,

Secretary of the Commission.

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

Appendices to Swap Data Recordkeeping and Reporting Requirements—Commission Voting Summary, Chairman's Statement, and Commissioners' Statements

Appendix 1—Commission Voting Summary

On this matter, Chairman Tarbert and Commissioners Quintenz, Behnam, Stump, and Berkovitz voted in the affirmative. No Commissioner voted in the negative.

Appendix 2—Statement of Support of Chairman Heath P. Tarbert

Data is the lifeblood of our markets. Yet for too long, market participants have been burdened with confusing and costly swap data reporting rules that do little to advance the Commission's regulatory functions. In the decade-long effort to refine our swap data rules, we have at times lost sight of Sir Isaac Newton's wisdom: ''Truth is ever to be found in simplicity, and not in the multiplicity and confusion of things.''

Overview

Simplicity should be a central goal of our swap data reporting rules. After all, making rules simple and clear facilitates compliance, price discovery, and risk monitoring. While principles-based regulation can offer numerous advantages, there are areas where a rules-based approach is preferable because of the level of clarity, standardization, and harmonization it provides. Swap data reporting is one such area.[1]

As it stands, swap data repositories (SDRs) and market participants have been left to wade through Parts 43 and 45 of our rules on their own. We have essentially asked them to decide what to report to the CFTC, instead of being clear about what we want. The result is a proliferation of reportable data fields designed to ensure compliance with our rules—but which exceed what market participants can readily provide and what the agency can realistically use. These fields can run hundreds deep, imposing costly burdens on market participants. Yet for all its sprawling complexity, the current data reporting system omits, of all things, uncleared margin information—thereby creating a black box of potential systemic risk.[2]

And that just describes CFTC reporting. As it stands today, a market participant with a swap reportable to the CFTC might also have to report the same swap to the SEC, the European Securities and Markets Authority (ESMA), and perhaps other regulators as well. The global nature of our derivatives markets has led to the preparation and submission of multiple swap data reports, creating a byzantine maze of disparate data fields and reporting timetables. Market participants should not incur the costs and burdens of reporting a grab-bag of dissimilar data for the very same swap. That approach helps neither the market nor the CFTC: Conflicting data reporting requirements make regulatory coordination more difficult, preventing a panoramic view of risk.

Today we take the first step toward changing this. I am pleased to support the proposed amendments to Parts 43 and 45 of the CFTC's rules governing swap data reporting.[3] The proposals simplify the swap data reporting process to ensure that market participants are not burdened with unclear or duplicative reporting obligations that do little to reduce market risk or facilitate price discovery. If the amendments are adopted, we will no longer collect data that does not advance our oversight of the swaps markets.

In fact, the Part 45 proposal includes a technical specification that identifies 116 standardized data fields that will help replace the many hundreds of fields now in use by SDRs. We are also proposing to harmonize our swap data reporting requirements with those of the SEC and ESMA. Harmonization would remove the burdens of duplicative reporting while painting a more complete picture of market risk. At the same time, the proposed changes to Part 43 would enhance public transparency as well as provide relief for end users who rely on our markets to hedge their risks. Our swaps markets are integrated and global; it is time for our reporting regime to catch up.

Simplified Reporting

Today's proposals advance my first strategic goal for our agency: Strengthening the resilience and integrity of our derivatives markets while fostering their vibrancy.[4] Simplified reporting is critical to the CFTC's ability to monitor systemic risk. While SDRs now require hundreds of data fields in an effort to comply with Parts 43 and 45 of our rules, uncleared margin has been noticeably absent. If finalized, Part 45 will require the reporting of uncleared margin data for the first time. This will significantly expand our visibility into potential systemic risk in the swaps markets.

A related problem we address today involves inconsistent data. SDRs currently validate swap transaction data in conflicting ways, causing market participants to report disparate data elements to different SDRs. Today's proposals include guidance to help SDRs standardize their validation of swap

[1] *See* Heath P. Tarbert, *Rules for Principles and Principles for Rules: Tools for Crafting Sound Financial Regulation,* Harv. Bus. L. Rev. (forthcoming 2020) (''A principles-based regime is often a poor choice where standard forms and disclosures are heavily used, as principles do not offer the needed precision.'').

[2] Requiring margin in the uncleared swaps markets ensures that counterparties have the necessary collateral to offset losses, preventing financial contagion. With respect to non-cleared, bilateral swaps, in which there is no central clearinghouse, parties bear the risk of counterparty default. In turn, the CFTC must have visibility into uncleared margin data to monitor systemic risk accurately and to act quickly if cracks begin appear in the system.

[3] We are also re-opening the comment period for part 49, which relates to SDR registration and governance.

[4] *See* Remarks of CFTC Chairman Heath P. Tarbert to the 35th Annual FIA Expo 2019 (Oct. 30, 2019), available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/opatarbert2* (announcing the core value of ''clarity'' and defining it as ''providing transparency to market participants about our rules and processes'').

data reports, shoring up the resilience and integrity of our markets.

Simplifying the reporting process will also enhance the regulatory experience for market participants at home and abroad, which is another strategic goal for the agency.[5] We have heard from those who use our markets that the complexity of our existing reporting rules creates confusion, leading to reporting errors.[6] This situation neither serves the markets nor advances the agency's regulatory purpose. Indeed, data errors can frustrate transparency and price discovery.

Our proposals today reflect a hard look at the data we are requesting and the data we really need. The proposals provide the guidance needed to collapse hundreds of reportable data fields into a standardized set of 116 that truly advance our regulatory objectives. If adopted, this would reduce burdens on market participants and provide technical guidance to ensure they are no longer guessing at what we require. Clear rules are easier to follow, and market participants will no longer be subject to reporting obligations that raise the costs of compliance without improving the resilience and integrity of our derivatives markets. Just as we are reducing requirements where they are not needed, we are also enhancing them where they are. This is the balanced approach sound regulation demands.

Regulatory Harmonization

Today's proposals also improve the regulatory experience by harmonizing swap data reporting where it is sensible to do so.[7] There is no good reason for a swap dealer or other market participant to report hundreds of differing data fields to multiple jurisdictions for the very same swap transaction. This situation imposes high costs with very little benefit.

While we should not harmonize for the sake of harmonizing,[8] we can reap real efficiencies by carefully building consistent data reporting frameworks. The proposals would harmonize our swap data reporting timelines with the SEC by moving to a ''T+1'' system for swap dealers, major swap participants, and derivatives clearing organizations. We would also remove duplicative confirmation data and lift the requirement that end users provide valuation data.

Harmonization also helps the CFTC realize our vision of being the global standard for sound derivatives regulation.[9] We have long been a leader in international swap data harmonization efforts, including by co-chairing the Committee on Payments and Infrastructures and the International Organization of Securities Commissioners (CPMI–IOSCO) working group on critical data elements (CDE) in swap reporting.[10] The purpose of the working group is to standardize CDE fields to facilitate consistent data reporting across borders. Our proposals today would bring this and related harmonization efforts to fruition by incorporating many of the CDE fields and a limited number of CFTC-specific fields into new Part 45 technical specifications. Incorporating the CDE fields would sensibly harmonize our reporting system with that of ESMA. As a result, the proposals would advance the CFTC's important role in bringing global regulators together to form a better data reporting system.

The proposals also would harmonize swap data reporting in several other important respects. First, we propose adopting a Unique Transaction Identifier (UTI) requirement in place of the existing Unique Swap Identifier (USI) system, as provided for in the CPMI–IOSCO Technical Guidance.[11] Adopting a UTI system would provide for consistent monitoring of swaps across borders, improving data sharing and risk surveillance. The proposals would also remove the requirement that market participants report duplicative creation and confirmation data, and would adopt reporting timetables that are consistent with those of ESMA and other regulators.[12] These are reasonable efforts that will improve the reporting process, while shoring up the CFTC's position as a leader on harmonization.

Enhanced Public Transparency

I am also pleased to support our proposals today because they enhance *clarity,* one of the four core values of our agency.[13] Streamlining the Part 45 technical specification is intended, in part, to reduce unclear and confusing data reporting fields that do not advance our regulatory objectives. But clarity demands more: We must also ensure we are providing transparent, high-quality data to the public.[14]

Part 43 embodies our public reporting system for swap data, which provides high-quality information in real time. Providing transparent, timely swap data to the public is critically important to the price discovery process necessary for our markets to thrive and grow. Enhanced public transparency also ensures that market participants and end users can make informed trading and hedging decisions.

The CFTC's current system for public reporting is considered the global standard. Even so, it can be improved. Although post-priced swaps are subject to unique pricing factors that affect the ''public tape,''[15] they are nonetheless reported after execution just like any other swap. It is of little value for the public to see swaps reported without an accurate price, or any price at all. To remedy this data quality issue and improve price discovery, we are proposing that post-priced swaps now be reported to the public tape after pricing occurs.

The current reporting system for prime broker swaps has led to data that distorts the picture of what is actually happening in the market. Currently, Part 43 requires that offsetting swaps executed with prime brokers—in addition to the initial swap reflecting the actual terms of the trade between counterparties—be reported on the public tape. Reporting these duplicative swaps can hinder price discovery by displaying pricing data that includes fees and other costs unrelated to the actual terms of the parties' swap. Cluttering the public tape with duplicative swaps is at best unhelpful, and at worst confusing. To the public, it could appear as though there are twice as many negotiated, arms-length swaps as there actually are. Today's proposals would solve this problem by requiring that only the initial ''trigger'' swaps be publicly reported.

Relief for End Users

Finally, the proposals would help make our derivatives markets work for all Americans, another of the CFTC's strategic goals.[16] While swaps are viewed by many Americans as esoteric products, they can nonetheless fulfill an important risk-management function for end users like farmers, ranchers, and manufacturers. End users often lack the reporting infrastructure of big banks, and may be unable to report data as quickly as swap dealers and financial institutions. Indeed, demanding that they do so can impair data quality, frustrating our regulatory objectives.

If finalized, today's proposals will no longer require end users to report swap valuation data. It would also give them a ''T+2'' timeframe for reporting the data we do require. The proposals would therefore remove unnecessary reporting burdens from end users relying on our swaps markets to hedge their risks. In addition, by providing sufficient time for end users to ensure their

[5] *See id.* (identifying the CFTC's strategic goals).

[6] The problem is compounded by the allowance for ''catch-all'' voluntary reporting, which creates incentives for market participants to flood the CFTC with any data that might possibly be required. Paradoxically, this kitchen-sink approach can so muddy the water as to undermine a fundamental purpose of data reporting: To create a transparent picture of market risk.

[7] Harmonizing regulation is an important consideration in addressing our increasingly global markets. *See* Opening Statement of Chairman Heath P. Tarbert Before the Open Commission Meeting on October 16, 2019, available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/heathstatement101619* (''The global nature of today's derivatives markets requires that regulators work cooperatively to ensure the success of the G20 reforms, foster economic growth, and promote financial stability.'').

[8] *Id.* (''To be sure, as my colleagues have said on several occasions, we should not harmonize with the SEC merely for the sake of harmonization. I agree that we should harmonize only if it is sensible.'').

[9] *See* CFTC Vision Statement, available at *https://www.cftc.gov/About/Mission/index.htm.*

[10] The CFTC also co-chaired the Financial Stability Board's working group on UTI and UPI governance.

[11] The CPMI–IOSCO harmonization group has requested that regulators implement UTI by December 31, 2020. I believe it is important for the CFTC to meet this deadline, which has long been public and reflects input from our staff. The remainder of our proposals today are subject to a 1-year implementation period.

[12] Today's proposals move to a ''T+1'' reporting deadline for swap dealers, major swap participants, and derivatives clearing organizations and to a ''T+2'' system for other market participants.

[13] *See* CFTC Core Values, available at *https://www.cftc.gov/About/Mission/index.htm.*

[14] One of the issues we are looking at closely is whether a 48-hour delay for block trade reporting is appropriate. We are hopeful that market participants will provide comment letters and feedback concerning the treatment of block trade delays.

[15] Many post-priced swaps are priced based on the equity markets, and do not have a known price until the equity markets close.

[16] *See* FIA Expo Remarks, *supra* note 5.

reporting is accurate, the proposals would also improve the quality of data we receive.

Conclusion

It is time for the Commission to reform our swap data reporting rules. Sir Isaac Newton realized long ago that simplicity can often lead to truth. It does not take an apple striking us on the head to realize that simplifying our swap data reporting rules to achieve clarity, standardization, and harmonization will inevitably make for sounder regulation.

Appendix 3—Statement of Support of Commissioner Brian D. Quintenz

I am pleased to support the data proposals before the Commission today. These proposed amendments to part 45 regulatory reporting and part 43 real-time reporting hopefully represent the beginning of the end of this agency's longstanding efforts to collect and utilize accurate, reliable swap data to further its regulatory mandates.

There is frequently a trade-off between being first and being right. That is especially true when it comes to regulation and specifically true when it comes to the CFTC's historical approach to uncleared swap data reporting. Although the CFTC was the first regulator in the world to implement swap data reporting requirements, it did so only in a partial, non-descriptive, and non-technical fashion, which has led to the fact that, even today, the Commission has great difficulty aggregating and analyzing data for uncleared swaps across swap data repositories (SDRs).

However, I'm very pleased that over the past few years, the CFTC continued to lead global efforts to reach international consensus on reporting requirements so that derivatives regulators can finally get a clear picture of the uncleared landscape.

I wish we could have arrived at this stage sooner. Nevertheless, I would like to recognize the diligent efforts of DMO staff to finally get us over the finish line. The proposals before us today seek to provide the Commission with the homogeneous data it needs to readily analyze swap data for both cleared and uncleared swaps, across jurisdictions. The proposals would eliminate unnecessary reporting fields, implement internationally agreed to ''critical data elements,'' or CDE fields, and revisit aspects of our current reporting regimes that can be further perfected.

It is important to note the differentiation between the poor usability of current uncleared swaps data and the significant usability of swaps data produced by clearinghouses for cleared swaps trades. In fact, the swap data for cleared swap transactions is regularly used by the Commission to monitor risk in real time at the client portfolio level.

Part 45 Regulatory Reporting

The proposal would provide reporting counterparties with a longer time to report trades accurately to an SDR by moving to a ''T+1'' reporting timeframe for swap dealer (SD) and derivatives clearing organization (DCO) reporting parties, and a ''T+2'' reporting timeframe for non-SD/DCO reporting counterparties. I support providing additional time for market participants to meet their regulatory reporting obligations. A later regulatory reporting deadline should help counterparties report the trade correctly the first time, instead of reporting an erroneous trade that then needs to be corrected later. This proposed change would also more closely harmonize the CFTC's and ESMA's reporting deadlines.

The proposal would also implement a number of CDE fields consistently with the detailed technical standards put forth by CPMI–IOSCO.[1] Importantly, the proposal would remove the current ''catch-all'' reporting requirement to report ''any other term(s) of the swap matched or affirmed'' by the counterparties. It would also require, for the first time, certain reporting counterparties to report valuation, margin, and collateral information daily to the Commission. Significantly, in order to alleviate burdens on small reporting counterparties, non-SD/MSP reporting counterparties would not be subject to these new requirements. With respect to swaps on physical commodities, the proposal seeks input from market participants about how certain data elements should be reported, including quantity unit of measure and price unit of measure. The CDE technical guidance did not harmonize many fields that are relevant to the physical commodity asset class. I know DMO will continue to play an active role through CPMI–IOSCO's CDE governance process to ensure that additional guidance and specificity are provided regarding the data elements for this asset class. I hope that commenters use this as an opportunity to help inform the additional steps that must be taken at the international level to ensure the effective reporting of commodity swaps.

The technical specification describing each of these data elements is being put out for public comment and I urge market participants to comment on all of the proposed elements. To the extent the CFTC can adopt basic data elements that are identical to other jurisdictions' elements, global aggregation and measurement of risk, including counterparty credit risk, can become a reality. However, the goal of global data harmonization, in my opinion, should also be balanced against the burdens and practical realities facing reporting counterparties. This proposal tries to strike an appropriate balance and I look forward to hearing from commenters on this point.

Part 43 Real-Time Reporting

The real-time reporting proposal generally maintains the ''as soon as technologically practicable'' reporting standard for most trades, but would adjust the delay for public dissemination of block transactions. The proposal also updates the block size thresholds and cap sizes and makes adjustments to the block swap categories.

With respect to the timing requirement for reporting block trades, the proposal would establish a time delay of 48 hours after execution of the trade. The Commodity Exchange Act (CEA) specifically directs the Commission to ensure that real-time public reporting requirements for swap transactions (i) do not identify the participants; (ii) specify the criteria for what constitutes a block trade and the appropriate time delay for reporting such block trades, and (iii) take into account whether public disclosure will materially reduce market liquidity.[2] Several commenters requested that the Commission reconsider the current delays for block trades under CFTC regulations, citing concerns about market liquidity, counterparty confidentiality, or the pricing of block trades.[3] Taking into account the CEA's directives and commenters' concerns, the proposal seeks to recalibrate the balance among price transparency, price discovery, and market liquidity. I am very interested to hear from commenters about whether or not the Commission struck the right balance in this proposal, and, if another time delay is more appropriate for particular asset classes of trades, I hope commenters will include their suggestions.

Conclusion

In the past, the leadership of the CFTC has likened the construction of a swap data reporting system to the building of a transcontinental railroad—a monumental infrastructure project, requiring considerable time and resources. However, in my opinion the best way to build a functioning intercontinental railroad is not to let every state decide how wide they want to make the tracks—the approach the agency tried when it rushed out its uncleared swap reporting framework almost eight years ago. Subsequent progress on this issue has always been stymied by transitioning away from that view—away from the lack of specificity and consistency in how reporting counterparties should report basic data elements. Today, as a result of the decisive leadership and hard work of this agency, I am optimistic that we have finally turned the corner towards complete visibility into the global swaps market landscape. I look forward to hearing feedback from market participants and SDRs about how our proposals can be further improved.

Appendix 4—Statement of Concurrence of Commissioner Rostin Behnam

I respectfully concur in the Commission's proposal to amend certain swap data and recordkeeping and reporting requirements. The proposed amendments reflect a multi-year effort to streamline, simplify, and internationally harmonize the requirements associated with reporting swaps. As a whole, the proposed amendments should improve data quality by eliminating duplication, removing alternative or adjunct reporting options, and utilizing universal data elements and identifiers. Along those lines, I am especially pleased that the Commission is proposing to require consistent application of rules across SDRs for the validation of both part 43 and part 45 data submitted by

[1] *See* CPMI–IOSCO, Technical Guidance, Harmonization of Critical OTC Derivatives Data Elements (other than UTI and UPI) (Apr. 2018), *available at https://www.bis.org/cpmi/publ/d175.pdf.*

[2] CEA section 2(a)(13)(E).

[3] *See, e.g.,* Comment Letter from SIFMA Asset Management Group (Aug. 18, 2017) and Comment Letter from the ACLI (Aug. 21, 2017).

reporting counterparties. I believe the proposed amendments to part 49 set forth a practical approach to ensuring SDRs can meet the statutory requirement to confirm the accuracy of swap data set forth in CEA section 21(c) [1] without incurring unreasonable burdens.

I am also pleased that the Commission is considering requiring reporting counterparties to indicate whether a specific swap: (1) Was entered into for dealing purposes (as opposed to hedging, investing, or proprietary trading); and/or (2) needs not be considered in determining whether a person is a swap dealer or need not be counted towards a person's *de minimis* threshold as described in paragraph (4) of the ''swap dealer'' definition in regulation 1.3 pursuant to one of the exclusions or exceptions in the swap dealer definition. In the past, the Commission staff has identified the lack of these fields as limiting constraints on the usefulness of SDR data to identify which swaps should be counted towards a person's *de minimis* threshold, and the ability to precisely assess the current *de minimis* threshold or the impact of potential changes to current exclusions.[2] As I have noted, where Congress has dictated that the Commission be the primary regulator for certain swap dealing activities, it should utilize resources efficiently to accomplish its duties.[3] It seems that the Commission's ongoing surveillance for compliance with the swap dealer registration requirements would be greatly enhanced by data fields identifying the relationship of a particular swap to its participant's business or purpose—even where the data might only be reasonably available via the reporting counterparty. Moreover, it would afford the Commission greater insight into the use and usefulness of current exclusions and exceptions, as well as provide important data to support further consideration of relief. I look forward to hearing from commenters on this question.

Appendix 5—Statement of Commissioner Dan M. Berkovitz

Introduction

Collecting swap data is crucial to fulfilling the purposes of the Commodity Exchange Act (''CEA''), including ''insur[ing] the financial integrity of all transactions subject to this Act and the avoidance of systemic risk.'' [1] The 2008 financial crisis showed how a lack of transparency in swap trading, and regulators' inability to monitor risk, can create fertile ground for the accumulation of excessive risks.

The Commission must collect appropriate swap data to fulfill its statutory mandate. The data must be accurate and sufficiently standardized so that the Commission can easily aggregate and analyze the data reported to different swap data repositories (''SDRs''). The Commission must be able to determine how different derivatives categories and products are being traded, as well as the positions and risks that different market participants are taking across the entire swaps market. I support today's Proposal to amend the Part 45, 46, and 49 [2] reporting requirements because it would improve the standardization and accuracy of swap data reported to SDRs, and would thereby strengthen the Commission's ability to oversee swap markets. I commend the many CFTC staff members who have spent years reviewing swap data and helped improve the data reporting framework.

In addition to obtaining accurate data, the Commission must also develop the tools and resources to analyze that data. The Proposal, which focuses on the quality and reporting of data, does not address in any detail the actual use cases for the data that would be collected or the analytical needs for swap risk management oversight. Regrettably, the Commission has yet to set forth with any specificity how it intends to use this swap data to evaluate or address systemic risk. More generally, the Commission has not devoted enough attention to the important task of building a risk monitoring system for swaps. In my view, this effort should be a high priority. I encourage market participants and members of the public to comment on the Proposal and on the particular questions noted below.

The Proposal

In 2010, Congress enacted the Dodd-Frank Act and codified swap reporting reforms consistent with international goals of ensuring that swap reporting and review is ''sufficient to improve transparency in the derivatives markets, mitigate systemic risk, and protect against market abuse.'' [3] In 2012, the Commission was the first major jurisdiction to adopt swap data reporting rules.[4]

The Proposal would amend those existing rules to simplify reporting obligations, increase data quality, and partially harmonize specific data elements and taxonomies with new international standards. It would reduce the number of potentially duplicative reports sent to SDRs by condensing basic reporting obligations into ''creation'' and ''continuation'' reports for all swaps and eliminate repetitive daily ''state'' data reporting of the same data for most existing transactions. SDRs would also be required to validate the data they receive. I support these efforts to improve swap data reporting.

The Proposal would also extend swap data reporting deadlines to T+1 (reporting required one day after the day the trade is executed) for swap dealers, major swap participants, swap execution facilities, designated contract markets, and derivatives clearing organizations (''DCOs''). Other reporting counterparties would be required to report no later than T+2. This change is expected to increase data accuracy, as it would allow time for reporting parties to verify their data before submission to an SDR. The tradeoff is that the Commission will not receive data nearly instantaneously, which could constrain the Commission's ability to undertake real time monitoring of risks in times of market stress. It is my understanding, however, that to date such monitoring has not been possible. I encourage public comments on these proposed reporting deadlines, including whether the full amount of T+1 or T+2 is necessary to achieve accurate reporting and is compatible with the Commission's market and systemic risk oversight responsibilities.

The Proposal also would impose a new requirement for swap dealers, major swap participants, and DCOs to report margin and collateral data each business day.[5] It would specify certain margin and collateral data elements, including the value of initial margin posted and received by the reporting counterparty, the value of variation margin posted and received, and the currency of posted margin.[6] The uncleared swaps margin rules are one of the most important risk-mitigation requirements added after the 2008 financial crisis and collecting margin data is important for the Commission to monitor risks and check compliance with the rules.

However, it is not clear whether the collateral data to be collected would be sufficient for the Commission's purposes. Without exposure data, the Commission may not be able to assess whether the amount of collateral collected offsets the risks posed by swaps or verify compliance with the uncleared swap margin rules. For these reasons, I ask that commenters address whether reporting of exposures or other data elements related to margin should be included in this rule or in other reporting requirements, or alternatively, whether the CFTC should be able to undertake the appropriate analysis with other data it already collects.

More Focus Needed on Data Analysis

As a CFTC Commissioner, I am often asked how we use SDR data, and whether the

[1] 7 U.S.C. 24a(c)(2).

[2] *See* De Minimis Exception to the Swap Dealer Definition, 83 FR 27444, 27449 (proposed June 12, 2018); Swap Dealer De Minimis Exception Final Staff Report at 19 (Aug. 15, 2016); (Nov. 18, 2015), available at *https://www.cftc.gov/sites/default/files/idc/groups/public/@swaps/documents/file/dfreport_sddeminis081516.pdf;* Swap Dealer De Minimis Exception Preliminary Report at 15 (Nov. 18, 2015), available at *https://www.cftc.gov/sites/default/files/idc/groups/public/@swaps/documents/file/dfreport_sddeminis_1115.pdf.*

[3] *See De Minimis Exception to the Swap Dealer Definition—Swaps Entered Into by Insured Depository Institutions in Connection with Loans to Customers,* 84 FR 12450, 12470–71 (Apr. 1, 2019).

[1] CEA section 3(b).

[2] The Proposal is one of three notices of proposed rulemaking developed from the Commission's 2017 ''Roadmap to Achieve High Quality Swaps Data.'' The Commission previously proposed revisions to its rules for SDRs (part 49) in 2019. The present proposal addresses regulatory reporting of swaps (part 45), reporting of transition and pre-enactment swaps (part 46), and certain additional amendments to part 49. Through separate actions today, the Commission is also proposing significant amendments to its real-time public reporting rules (part 43) and reopening the comment period on its 2019 proposal for SDRs.

[3] *See* G20, Leaders' Statement: The Pittsburgh Summit (Sept. 24–25, 2009), paragraph 13, available at *https://www.treasury.gov/resource-center/international/g7-g20/Documents/pittsburgh_summit_leaders_statement_250909.pdf.*

[4] The Commission initially published its part 45 rules in January 2012. *See* Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136 (Jan. 13, 2012).

[5] *See* proposed § 45.4(c)(2).

[6] *See* proposed appendix 1 to part 45.

Commission has the institutional focus to leverage the unprecedented amounts of information at its disposal. The Commission requires that *every* swap subject to its jurisdiction be reported to an SDR, and that the data be updated throughout the entire swap lifecycle. Tens of millions of swap data records are received by SDRs monthly. Market participants are justified in asking what the Commission does with so much data.

Systemic risk monitoring, market integrity, and the protection of market participants are fundamental purposes of the CEA. Comprehensive data sets and sophisticated data analysis are indispensable to the Commission and indeed to any modern financial regulatory agency. For decades the CFTC has been analyzing futures and options data on a daily basis to monitor risk and margin sufficiency in those markets.

The Commission needs to identify and articulate how it will use swap data to meet its mandates. While general goals are often stated, the Commission needs to identify the specific risks it is measuring and monitoring and the information that should be made available to the public to improve market transparency. The Commission should be able to identify which data elements allow the Commission to specifically monitor for *market* risk, *liquidity* risk, and *credit* risk, for example, and how those elements are used for that purpose. We should describe how specific data elements will improve the accuracy of the weekly swaps report and bring greater transparency for market participants. The Commission should map the data elements in the Proposal to these uses and others to explain in a comprehensive manner [7] how they will be used and why they are needed.

I urge the Commission to focus more resources on swap data analysis so that we can maximize our use of the reported data to help mitigate risks before they become a full blown crisis. While data is the necessary foundation of any good risk monitoring program, more must be done. The Commission must also develop a more comprehensive capacity to measure and monitor risk. It must identify how it will achieve specific swap analysis objectives, the data needed for such objectives, and the information technology and human resources needed to execute its vision.

[7] Staff has provided information about a particular use for each data element. However, we have not seen how the data elements together allow for a more comprehensive entity level or market level analysis of specific risks.

Conclusion

Part 45 and the proposal's swap data elements are generally focused on the reporting of individual swap transactions, as specified in CEA section 2a(13)(G). I support the Proposal because it will standardize and improve the reporting of quality swap data. This is both necessary and appropriate; high quality data is the foundation upon which needed data analysis for risk monitoring and greater transparency are built. I encourage public comment on whether the 116 data elements in the proposal are sufficient to understand the market, counterparty, and systemic risks associated with individual swaps and with each market participant's swap book and aggregate exposures.

I thank the staff of the Commission, and particularly the Division of Market Oversight, for their work on the Proposal and for their constructive engagement with my office. I look forward to public comments, and to a more complete articulation by the Commission of how it will use the swap data that would be collected to fulfill its congressionally mandated mission.

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Part IV

Department of Homeland Security

Coast Guard

46 CFR Parts 30, 150, and 153

2013 Liquid Chemical Categorization Updates; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 30, 150, and 153

[Docket No. USCG–2013–0423]

RIN 1625–AB94

2013 Liquid Chemical Categorization Updates

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is finalizing its 2013 proposal to update the Liquid Chemical Categorization tables, aligning them with the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk and the International Maritime Organization's Marine Environment Protection Committee circulars from December 2012 and 2013. This final rule corrects errors in our interim rule of August 16, 2013, and follows our supplemental notice of proposed rulemaking of October 22, 2015. The updated tables provide a list of liquid hazardous materials and liquefied and compressed gases approved for international and domestic maritime transportation, and indicate how each substance is categorized by its pollution potential, safe carriage requirements, chemical flammability, combustibility, and compatibility with other substances. This rule imposes no cost to chemical shippers and vessel owners.

DATES: This final rule is effective May 18, 2020.

ADDRESSES: You may view comments identified by docket number USCG–2013–0423 using the Federal eRulemaking Portal at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For information about this document call or email LT Jake Lobb, Coast Guard; telephone (202) 372–1428, email *Jake.R.Lobb2@uscg.mil,* or Dr. Raghunath Halder, Coast Guard; telephone (202) 372–1422, email *Raghunath.Halder@uscg.mil.*

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I. Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
IBC Code International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk
IMO International Maritime Organization
LCC Liquid Chemical Categorization
MARPOL International Convention for the Prevention of Pollution From Ships
MEPC Marine Environment Protection Committee
OMB Office of Management and Budget
SNPRM Supplemental Notice of Proposed Rulemaking
SOLAS International Convention for the Safety of Life at Sea
§ Section
U.S.C. United States Code

II. Basis and Purpose

The legal basis for this final rule is Title 46 of the United States Code (U.S.C.) Section (§) 3703, which requires the Secretary of the Department of Homeland Security (DHS) to prescribe regulations relating to the operation of vessels that carry oil or hazardous material in bulk as cargo or cargo residue, and to the types and grades of cargo those vessels carry. Additional regulatory authority is provided by 33 U.S.C. 1903 (regulations to implement the International Convention for the Prevention of Pollution from Ships, 1973, or ''MARPOL''), 46 U.S.C. 2103 (general merchant marine regulatory authority), and 46 U.S.C. 3306 (regulations for the safety of individuals and property on inspected vessels). The Secretary delegated the authority to carry out the provisions of this section to the Coast Guard, in accordance with DHS Delegation No. 0170.1(II)(77) and (92).

The purpose of this final rule is to revise and update the Liquid Chemical Categorization (LCC) tables that list the liquid hazardous materials and liquefied and compressed gases that have been approved for international and domestic maritime transportation in bulk. The tables also indicate how each substance is categorized by its pollution potential, safe carriage requirements, chemical flammability, combustibility, and chemical compatibility with other substances.

This final rule applies to the carriage of cargos from vessel populations described in 46 CFR 30.01–5, 150.110 (with exceptions described in 46 U.S.C. 3702), 153.1, and 154.5. All U.S. and foreign-flagged tank vessels are included, unless exempted by 46 CFR 30.01–5. Also included are self-propelled bulk cargo carrying oceangoing/non-oceangoing U.S.-flag and oceangoing foreign-flag vessels when in U.S. waters. Foreign tank vessels are exempt from this regulation when on innocent passage through U.S. waters.

III. Regulatory History

The Coast Guard published an interim rule on this topic in 2013.[1] Acknowledging public comments that brought to light certain errors in the interim rule, we delayed the interim rule's effective date of September 16, 2013 three times.[2] We proposed corrections to these errors in a supplemental notice of proposed rulemaking (SNPRM) published on October 22, 2015.[3] Because of the amount of time that had passed since the interim rule was published, in addition to correcting errors in the tables, the SNPRM also proposed to align the interim rule's LCC tables with the International Maritime Organization's (IMO) Marine Environment Protection Committee (MEPC) December 2013 Circular. We published the SNPRM, rather than proceeding directly from the 2013 interim rule to this final rule, to allow the public to review the additional entries and, if necessary, suggest corrections.

IV. Discussion of the Rule

Coast Guard regulations in title 46 Code of Federal Regulations (CFR), chapter I, subchapter D (Tank Vessels, parts 30 through 39) and subchapter O (Certain Bulk Dangerous Cargoes, parts 150 through 155) contain requirements for ensuring safe international and domestic maritime carriage of certain bulk liquid cargoes. The tables in subchapters D and O (collectively referred to as ''LCC tables'') list the cargoes for maritime carriage that have

[1] *2012 Liquid Chemical Categorization Updates;* Interim Rule, Volume 78 of the **Federal Register** (FR) 50147 (August 16, 2013). Because the interim rule contained information updated only through December 2012, it was titled ''2012 Liquid Chemical Categorization Updates.'' On October 22, 2015, we published an SNPRM titled ''2013 Liquid Chemical Categorization Updates,'' because it had been updated as of the IMO's MEPC December 2013 Circular. The interim rule, the SNPRM, and this final rule share the same docket number.

[2] See 78 FR 56837 (September 16, 2013; delayed until January 16, 2014); 79 FR 2106 (January 13, 2014; delayed until January 16, 2015); 79 FR 68131 (November 14, 2014; delayed until January 16, 2017).

[3] 80 FR 64191 (October 22, 2015).

been approved by the Coast Guard. The LCC tables also categorize the pollution-hazard risk for each cargo. The Coast Guard may approve carriage of unlisted cargoes, or carriage under conditions other than those listed in the tables, through individual letters of approval.[4]

As we described in detail in our interim rule and the SNPRM, the LCC tables contain categorization information based on assessments by the Coast Guard and IMO, and on international tripartite agreements that categorize the pollution-hazard risk, flammability, and combustibility of each cargo in accordance with the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code).[5] IMO conducts its own multi-year review and assessment of the information contained in the tripartite agreements, and, following its review, either validates or modifies them. These LCC tables reflect modifications resulting from the IMO's 2013 review, as described below.

Each December, the IMO's MEPC releases an annual circular that lists cargoes for which it has completed a multi-year review. A cargo is listed in the circular if a tripartite agreement approves it for international bulk maritime transportation and the MEPC validates the approval. The IBC Code is periodically revised by state parties to the Code to include the cargoes listed in the MEPC annual circulars as of the last edition of the Code. The IBC Code was last comprehensively revised in 2007. In that revision, the pollution categories used to indicate a cargo's relative pollution-hazard risk—A, B, C, and D—were replaced by categories X, Y, Z, and OS (for ''other substance,'' considered to pose no risk).[6] The LCC tables in this final rule reflect the 2007 revisions to the IBC Code.

In March 2012, the IMO published an annex to the 2007 IBC Code, which listed additional cargoes and their pollution categorizations. This additional information is also reflected in the LCC tables in this final rule.

Until we published the 2013 interim rule, the LCC tables in subchapter D and subchapter O had gone unamended for several years and contained pre-2007 IBC Code provisions. They also did not reflect carriage allowed by individual approvals. The interim rule updated the following tables:

- Table 30.25–1 in subchapter D;
- Table I to part 150 in subchapter O;
- Table II to part 150 in subchapter O;
- Appendix I to part 150; and
- Table 2 to part 153 in subchapter O.

The 2015 SNPRM proposed updating these tables to be current with the December 2013 MEPC circular. This final rule adopts the interim rule with the changes proposed in the SNPRM, including corrections to the tables published in the interim rule. Minor modifications were also made in response to comments received on the SNPRM, as discussed below, and to harmonize chemical names and categories within the tables. We also reinstated chemicals that had been listed in previous editions of the CFR but were inadvertently omitted from the tables in the SNPRM. Vessels continue to carry these substances in the manner described in this rule, and reinstating these substances creates no change to current practice. The tables in their entirety are available in the docket where indicated under the **ADDRESSES** portion of this preamble.

V. Discussion of Comments and Changes

Our 2013 interim rule prompted comments from two individuals and four industry representatives, one of whom made multiple submissions. Those comments were fully discussed in the 2015 SNPRM.[7]

The SNPRM prompted comments from the American Chemistry Council (a trade group) and two chemical companies. One of the companies asked us to add a substance to the tables, Alkanes (C10–C26), linear and branched (flash point ≤60 °C), and we have added this substance to our tables. This company also corrected our ''group'' assignments for 11 substances and corrected two misspellings, and we have accepted those corrections. In addition, that company pointed to the need to spell out an abbreviation used in one of the LCC tables and asked us to delete five trade names for substances, which we have done. The other company asked us to accept variant spellings for the same substance, (for example ''aluminium'' for ''aluminum'') and to correct the spelling of one of the substances. We have done so in this final rule.

Both companies asked us to list substances that had been approved by the IMO after 2013. We did not list these substances in this final rule because the scope of the rule is limited to IMO actions through its 2013 MEPC annual circular. For the same reason, we cannot act on the American Chemistry Council's request to list 1-dodecene as a unique substance. These substances will be considered for inclusion in a future update to the LCC tables.

In addition to the comments discussed above, the Coast Guard received one late comment from an individual expressing general support for the rule.

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this rule is not a significant regulatory action, this rule is exempt

[4] See, for example, 46 CFR 150.160 and 151.01–15.

[5] The IBC Code contains international standards for the safe maritime bulk transportation of dangerous and noxious liquid chemicals in accordance with the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL) and the International Convention for the Safety of Life at Sea (SOLAS). For a discussion of tripartite agreements, see page 50149 of the interim rule (78 FR 50147, 50149).

[6] *See* MARPOL, Annex II, Chapter 2, Regulation 6. With respect to the discharge of a cargo into the sea from tank cleaning or deballasting operations and the resulting hazard to marine resources or human health, the new categories indicate:

- X = Major hazard justifying prohibition of the discharge;
- Y = Hazard justifying a limitation on the quality and quantity of the discharge;
- Z = Minor hazard justifying less stringent restrictions on the quality and quantity of the discharge; and
- OS = No harm that justifies special discharge requirements.

[7] 80 FR 64192 at 64193 (col. 3) and 64194.

from the requirements of Executive Order 13771. *See* the OMB Memorandum titled ''Guidance Implementing Executive Order 13771, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017). A regulatory analysis follows.

Affected Population

This final rule updates and revises the LCC tables that list the name, pollution potential, safe carriage requirements, chemical flammability, combustibility, and compatibility with other substances of each liquid chemical cargo that has been categorized and approved for maritime transportation in bulk by IMO and the Coast Guard. This final rule provides updated information about cargoes that are currently approved for maritime transportation in bulk, the cargo's pollution categorization, and minimum transportation safety requirements. This rule applies to the carriage of the subject cargoes from vessel populations described in 46 CFR 30.01–5, 150.110 (with exceptions described in 46 U.S.C 3702), 153.1, and 154.5. All U.S. and foreign flagged tank vessels are included, unless exempted by 46 CFR 30.01–5. Also included are self-propelled bulk cargo carrying oceangoing/non-oceangoing U.S.-flag and oceangoing foreign-flag vessels when in U.S. waters. Foreign tank vessels are exempt from this regulation when on innocent passage through U.S. waters.

Costs

This final rule updates the LCC tables that list the name, pollution potential, safe carriage requirements, chemical flammability, combustibility, and compatibility with other substances of each liquid chemical cargo that has already been categorized and approved by the Coast Guard and the IMO for maritime transportation in bulk, either permanently, or on a provisional basis. This final rule updates and revises the LCC tables to reflect existing international agreements regarding liquid chemical cargoes approved for bulk maritime transportation and their categorizations. As such, the rule does not change the established shipping requirements, and imposes no private-sector costs to chemical shippers and vessel owners. No additional labor nor equipment will be required because of this rule. No commenter challenged the ''no cost to industry'' assessment by the Coast Guard in the SNPRM's regulatory analysis.

There is no cost to Coast Guard, as the updates are included in this rulemaking.

This final rule also corrects errors and omissions in the tables that were included in the interim rule, and updates the LCC tables to be current through the IMO MEPC Circular of December 2013. The rule incorporates the Coast Guard's compatibility categorizations, as well as chemical cargoes and categorizations listed in the 2013 MEPC circular.

Benefits

The primary benefit of this final rule is that it conforms regulatory language to practices currently allowed by the Coast Guard, either through individual letters of approval or the IBC Code. We expect the rule to result in improved service to the public through improved clarity and transparency. Public comments reflect that this rulemaking will provide benefits for the public and private sector by bringing more clarity and transparency to the maritime transportation of hazardous materials. Thus, this final rule is codifying existing practices which will decrease confusion as to what are the regulatory requirements in the LCC tables.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. There are no small shippers engaged in the transport of the LCC chemicals. Further, there are no private industry costs incurred. Consequently, the rule is estimated to have no incremental impact on on the regulated public.

The Coast Guard certified in the SNPRM under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This rule calls for no new or modified collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. It simply updates and revises the LCC tables that list cargoes that have been approved and categorized for bulk maritime transportation, and does not collect any information from the public.

E. Federalism

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

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. *See* the Supreme Court's decision in *United States* v. *Locke* and *Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (2000). This final rule amends existing regulations for inspected tank vessels carrying certain bulk dangerous cargoes, which fall within the categories enumerated in 46 U.S.C. 3703, which themselves are within fields in which the States are foreclosed from regulating. Therefore, because the States may not regulate within these categories, this rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

F. Unfunded Mandates

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

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

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

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards will be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. It is based on international standards that were developed using consensus standards development processes.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev. I, 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 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. A final 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. This rule involves administrative updates of existing chemical transport regulations and updates relating to the chemical properties of liquid chemical cargoes approved for maritime transportation in bulk. The updates incorporate changes to how approved cargoes are categorized by their chemical properties. This rule is categorically excluded under paragraphs L52, L54, and L57 under Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. Paragraph L52 relates to ''regulations concerning vessel operation safety standards . . . equipment approval, and/or equipment carriage requirements . . . and visual distress signals.'' Paragraph L54 pertains to ''regulations which are editorial or procedural, such as those updating addresses or establishing application procedures.'' Paragraph L57 involves ''regulations concerning manning, documentation, admeasurement, inspection, and equipping of vessels.''

List of Subjects

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 150

Hazardous materials transportation, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements.

46 CFR Part 153

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

For the reasons discussed in the preamble, the Coast Guard adopts the interim rule published at 78 FR 50152 on August 16, 2013, amending 46 CFR parts 30, 150, and 153, as final with the following changes:

PART 30—GENERAL PROVISIONS

■ 1. The authority citation for part 30 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703, Department of Homeland Security Delegation No. 0170.1 (II)(92)(a), (92)(b).

■ 2. In § 30.25–1:
■ a. Revise paragraphs (d) introductory text and (d)(2) and (3); and
■ b. Amend Table 30.25–1 by:
■ i. Revising the bracketed NOTES paragraph following the table heading;
■ ii. Removing the entries for ''Alkyl(C8–C9) phenylamine in aromatic solvents*'', ''*Diethylene glycol ethyle ether acetate, see* Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether acetate'', and ''Oil, edible: Poppy seed'';
■ iii. Adding in alphabetical order the entries marked ''[ADD]'' and revising the entries marked ''[REVISE]''; and
■ iv. Revising the the notes at the end of the table.

The revisions and additions read as follows:

§ 30.25–1 Cargoes carried in vessels certificated under the rules of this subchapter.

* * * * *

(d) Any mixture containing one or more cargoes categorized by the International Maritime Organization (IMO) and listed in Table 30.25–1 as a category X, Y, or Z noxious liquid substance (NLS) may be carried in bulk—

* * * * *

(2) Under part 153 if the vessel is regulated under that part; or

alternatively under 33 CFR part 151 if the cargo is listed in 33 CFR 151.49; or

(3) Under 33 CFR part 151 if the cargo is listed in 33 CFR 151.47.

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES

[See NOTES at the end of this table for an explanation of symbols and terms used in this table. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by a tank barge.]

Cargo name	IMO Annex II pollution category
[REVISE]	
Acetochlor	**X**
* * * * * *	*
[ADD]	
Acrylic acid/ethenesulphonic acid copolymer with phosphonate groups, sodium salt solution	Z
* * * * * *	*
[REVISE]	
Alcohol (C6–C17) (secondary) poly(3–6) ethoxylates	Y
Alcohol (C6–C17) (secondary) poly(7–12) ethoxylates	Y
Alcohol (C9–C11) poly(2.5–9) ethoxylate	Y
Alcohol (C12–C15) poly(. . .) ethoxylates, see Alcohol (C12–C16) poly*(. . .)* ethoxylates.	
Alcohol (C12–C16) poly(1–6) ethoxylates	Y
Alcohol (C12–C16) poly(7–19) ethoxylates	Y
Alcohol (C12–C16) poly(20+) ethoxylates	Y
* * * * * *	*
Alkenyl (C11+) amide	**X**
Alkenyl (C8+) amine, Alkenyl (C12+) acid ester mixture	#
[ADD]	
Alkenyl (C16–C20) succinic anhydride	Z
[REVISE]	
Alkyl acrylate-Vinylpyridine copolymer in toluene	**Y**
Alkylbenzene, Alkylindane, Alkylindene mixture (each C12–C17)	**Z**
Alkyl (C3–C4) benzenes	**Y**
Alkyl (C5–C8) benzenes	**X**
Alkyl (C9+) benzenes	Y
Alkyl (C11–C17) benzene sulfonic (alternately sulphonic) acid	**Y**
Alkylbenzene sulfonic (alternately sulphonic) acid (4% or less)	#
Alkyl dithiocarbamate (C19–C35)	**Y**
* * * * * *	*
Alkyl (C7–C11) phenol poly(4–12) ethoxylate	Y
Alkyl phenol sulfide (alternately *sulphide*) *(C8–C40), see* Alkyl (C8–C40) phenol sulfide (alternately sulphide).	
Alkyl (C8–C40) phenol sulfide (alternately sulphide)	Z
Alkyl (C8–C9) phenylamine in aromatic solvents	**Y**
Alkyl (C9–C15) phenyl propoxylate	Z
Alkyl (C8–C10) polyglucoside solution (65% or less)	**Y**
Alkyl (C12–C14) polyglucoside solution (55% or less)	**Y**
Alkyl (C8–C10)/(C12–C14):(40% or less/60% or more) polyglucoside solution (55% or less)	**Y**
Alkyl (C8–C10)/(C12–C14):(60% or more/40% or less) polyglucoside solution (55% or less)	**Y**
Alkyl (C8–C10)/(C12–C14):(50%/50%) polyglucoside solution (55% or less)	**Y**
Alkyl (C10–C20, saturated and unsaturated) phosphite	**Y**
n-Alkyl phthalates, see individual phthalates.	
Alkyl sulfonic (alternately sulphonic) acid ester of phenol	Y
[ADD]	
Aluminum (alternately, Aluminium) hydroxide, sodium	**Y**
* * * * * *	*
[REVISE]	
2-Amino-2-methyl-1-propanol	**Z**
* * * * * *	*
tert-Amyl ethyl ether	**Z**
* * * * * *	*
Amyl methyl ketone, see Methyl amyl ketone.	
Amylene, see Pentene (all isomers).	
* * * * * *	*
Aviation alkylates (C8 paraffins and isoparaffins BPT 95 to 120 °C)	**X**
[ADD]	
Barium long-chain (C11–C50) alkaryl sulfonate	**Y**
[REVISE]	
Barium long-chain alkyl (C8–C14) phenate sulfide (alternately sulphide)	#

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of this table for an explanation of symbols and terms used in this table. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by a tank barge.]

Cargo name	IMO Annex II pollution category
* * * * * *	*
Behenyl alcohol, see Alcohols (C13+).	
* * * * * *	*
Benzyl acetate	**Y**
* * * * * *	*
[ADD]	
Bis(2-ethylhexyl) terephthalate	**Y**
* * * * * *	*
Butane	LFG
[REVISE]	
Butene, see Butylenes (all isomers).	
* * * * * *	*
[ADD]	
2-Butoxyethanol (58%)/Hyperbranched polyesteramide (42%) (mixture)	**Y**
* * * * * *	*
[REVISE]	
Butylbenzene (all isomers), see Alkyl (C3–C4) benzenes.	
* * * * * *	*
Butyl butyrate (all isomers)	**Y**
[ADD]	
Butylene	LFG
* * * * * *	*
[REVISE]	
1,3-Butylene glycol, see Butylene glycol.	
iso-Butyl formate, see Isobutyl formate.	
n-Butyl formate	#
* * * * * *	*
Calcium alkyl (C9) phenol sulfide (alternately sulphide), polyolefin phosphorosulfide (alternately phosphorosulphide) mixture	#
Calcium alkyl salicylate, see Calcium long-chain alkyl salicylate (C13+)	
Calcium long-chain alkaryl sulfonate (alternately sulphonate) (C11–C50)	#
Calcium long-chain alkyl phenate (C8–C40), see Calcium long-chain alkyl (C5–C10) phenate *or* Calcium long-chain alkyl (C11–C40) phenate	
Calcium long-chain alkyl (C5–C10) phenate	Y
Calcium long-chain alkyl (C11–C40) phenate	Y
Calcium long-chain alkyl phenolic amine (C8–C40)	#
Calcium long-chain alkyl salicylate (C13+)	Y
[ADD]	
Camelina oil	**Y**
[REVISE]	
Candelilla wax, see Waxes: Candelilla.	
* * * * * *	*
epsilon-Caprolactam (molten or aqueous solutions)	**Z**
Carnauba wax, see Waxes: Carnauba.	
Cetyl alcohol (Hexadecanol), see Alcohols (C13+).	
Cetyl/Stearyl alcohol, see Alcohols (C13+).	
Chlorinated paraffins (C10–C13)	**X**
1-(4-Chlorophenyl)-4,4-dimethyl-pentan-3-one	**Y**
Citric acid (70% or less)	**Z**
* * * * * *	*
Coconut oil fatty acid methyl ester	**Y**
* * * * * *	*
Cottonseed, fatty acid, see Cottonseed oil, fatty acid.	
Cottonseed oil, fatty acid	#
* * * * * *	*
Cumene, see Alkyl (C3–C4) benzenes.	
Cycloheptane	**X**

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of this table for an explanation of symbols and terms used in this table. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by a tank barge.]

Cargo name	IMO Annex II pollution category
* * * * * *	*
Cyclohexyl acetate	**Y**
1,3-Cyclopentadiene dimer (molten)	Y
Cyclopentane	**Y**
Cyclopentene	**Y**
* * * * * *	*
Decahydronaphthalene	Y
iso-Decaldehyde, see Isodecaldehyde.	
n-Decaldehyde	#
Decane, see n-Alkanes (C10+).	
Decanoic acid	**X**
* * * * * *	*
n-Decylbenzene, see Alkyl (C9+) benzenes.	
Detergent alkylate, see Alkyl (C9+) benzenes.	
* * * * * *	*
Dialkyl (C10–C14) benzenes, see Alkyl (C9+) benzenes.	
Dialkyl (C8–C9) diphenylamines	Z
Dialkyl (C7–C13) phthalates	X
Including:	
Diisodecyl phthalate.	
Diisononyl phthalate.	
Dinonyl phthalate.	
Ditridecyl phthalate.	
Diundecyl phthalate.	
* * * * * *	*
Dibutyl hydrogen phosphonate	Y
2,6-Di-ter*t*-butylphenol	**X**
Dibutyl phthalate	**X**
* * * * * *	*
Dibutyl terephthalate	**Y**
* * * * * *	*
Diethylene glycol butyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.	
Diethylene glycol butyl ether acetate, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether acetate.	
* * * * * *	*
Diethylene glycol ethyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.	
[ADD]	
Di+, see Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether acetate.	
[REVISE]	
Diethylene glycol n-hexyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.	
Diethylene glycol methyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.	
Diethylene glycol methyl ether acetate, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether acetate.	
* * * * * *	*
Diethylene glycol propyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.	
* * * * * *	*
Diglycidyl ether of bisphenol F	**Y**
Diheptyl phthalate, see Dialkyl (C7–C13) phthalates.	
Di-n-hexyl adipate	**X**
* * * * * *	*
Diisononyl phthalate, see Dialkyl (C7–C13) phthalates.	
* * * * * *	*
Dimethyl octanoic acid	**Y**
* * * * * *	*
Dinonyl phthalate, see Dialkyl (C7–C13) phthalates.	
Dioctyl phthalate, see Dialkyl (C7–C13) phthalates.	

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of this table for an explanation of symbols and terms used in this table. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by a tank barge.]

Cargo name	IMO Annex II pollution category
* * * * * *	*
Diphenylamine (molten)	**Y**
Diphenylamines, alkylated	**Y**
* * * * * *	*
Diphenylol propane-epichlorohydrin resins	**X**
* * * * * *	*
Dipropylene glycol butyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.	
* * * * * *	*
Dipropylene glycol methyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.	
Dithiocarbamate ester (C7–C35)	**X**
* * * * * *	*
Dodecanol (all isomers), see Dodecyl alcohol (all isomers).	
* * * * * *	*
Dodecyl benzene, see Alkyl (C9+) benzenes.	
Dodecyl hydroxypropyl sulfide (alternately sulphide).	X
* * * * * *	*
Drilling brines (containing zinc salts) (if flammable or combustible)	**X**
Drilling brines, including: calcium bromide solution, calcium chloride solution and sodium chloride solution (if flammable or combustible)	**Z**
* * * * * *	*
ETBE, see Ethyl tert-butyl ether.	
[ADD]	
Ethane	LFG
[REVISE]	
* * * * * *	*
Ethoxylated alkyloxy alkyl amine, see Ethoxylated long-chain (C16+) alkyloxyalkylamine.	
[ADD]	
Ethoxylated long-chain (C16+) alkyloxyalkylamine	Y
* * * * * *	*
[REVISE]	
S-Ethyl dipropylthiocarbamate	**Y**
[ADD]	
Ethylene	LFG
* * * * * *	*
[REVISE]	
Fatty acids (C16+)	**Y**
Fatty acids, essentially linear (C6–C18) 2-ethylhexyl ester	**Y**
* * * * * *	*
Gas oil, low sulfur (alternately sulphur)	I
* * * * * *	*
Gasolines:	
† Automotive (*containing not more than 4.23 grams lead per gallon*)	I
† Aviation (*containing not more than 4.86 grams lead per gallon*)	I
Casinghead (*natural*)	I
Polymer	I
† Straight run	I
* * * * * *	*
[ADD]	
Glucitol/glycerol blend propoxylated (containing 10% or more amines)	**Z**
* * * * * *	*
[REVISE]	
Glycerol ethoxylated	**OS**
* * * * * *	*
Glycerol, propoxylated and ethoxylated	**Z**

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of this table for an explanation of symbols and terms used in this table. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by a tank barge.]

Cargo name	IMO Annex II pollution category
Glycerol/sucrose blend, propoxylated and ethoxylated	**Z**
* * * * * *	*
[ADD]	
Grape seed oil	**Y**
[REVISE]	
* * * * * *	*
Groundnut oil	Y
* * * * * *	*
Heptadecane, see n-Alkanes (C10+).	
* * * * * *	*
Heptanoic acid, see n-Heptanoic acid.	
***n*-Heptanoic acid**	**Z**
* * * * * *	*
Hexadecanol (Cetyl alcohol), see Alcohols (C 13+).	
* * * * * *	*
1,6-Hexanediol, distillation overheads	**Y**
* * * * * *	*
Hydrogenated starch hydrolysate	**OS**
* * * * * *	*
Hydroxyl terminated polybutadiene, see Polybutadiene, hydroxyl terminated.	
Illipe oil	Y
Isoamyl alcohol	Z
Isobutyl alcohol	Z
Isobutyl formate	Z
Isobutyl methacrylate	Z
[ADD]	
Isodecaldehyde	#
Isophorone	Y
[REVISE]	
Isopropyl acetate	Z
Isopropyl alcohol	Z
[ADD]	
Isopropylbenzene, see Alkyl (C3–C4) benzenes.	
[REVISE]	
Isopropylcyclohexane	@Y
Jatropha oil	**Y**
* * * * * *	*
Lard oil	#
[ADD]	
Latex (ammonia (1% or less) inhibited)	Y
[REVISE]	
Latex: Carboxylated styrene-Butadiene copolymer; Styrene-Butadiene rubber	**Z**
Lauric acid	**X**
* * * * * *	*
[ADD]	
Linseed oil	Y
* * * * * *	*
[REVISE]	
Long-chain alkaryl sulfonic (alternately sulphonic) acid (C16–C60)	Y
Long-chain alkylphenate/Phenol sulfide (alternately sulphide) mixture	Y
* * * * * *	*
L-Lysine solution (60% or less)	**Z**
Magnesium long-chain alkaryl sulfonate (alternately sulphonate) (C11–C50)	Y
Magnesium long-chain alkyl phenate sulfide (alternately sulphide) (C8–C20)	#

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of this table for an explanation of symbols and terms used in this table. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by a tank barge.]

Cargo name	IMO Annex II pollution category
* * * * * *	*
Magnesium nonyl phenol sulfide (alternately *sulphide*), *see* Magnesium long-chain alkyl phenate sulfide (alternately sulphide) (C8–C20).	
[ADD]	
Maleic anhydride/sodium allylsulphonate copolymer solution	**Z**
[REVISE]	
Mango kernel oil	**Y**
* * * * * *	*
[ADD]	
Methane	LFG
* * * * * *	*
[REVISE]	
N-(2-Methoxy-1-methyl ethyl)-2-ethyl-6-methylchloroacetanilide	**X**
Methoxy triglycol, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.	
* * * * * *	*
Methyl butanol, see amyl alcohols.	
* * * * * *	*
Methylbutynol	**Z**
* * * * * *	*
Methylcyclohexane	**Y**
Methylcyclopentadiene dimer	**Y**
Methyl 3-(3,5 di-tert-butyl-4-hydroxyphenyl)propionate crude melt	**[Y]**
* * * * * *	*
[ADD]	
Methyl formate	**Z**
* * * * * *	*
2-Methylglutaronitrile with 2-Ethylsuccinonitrile (12% or less)	**Z**
* * * * * *	*
2-Methyl-2-hydroxy-3-butyne	**Z**
* * * * * *	*
Methyl naphthalene (molten)	**X**
* * * * * *	*
2-Methylpyridine	**Z**
3-Methylpyridine	**Z**
4-Methylpyridine	**Z**
* * * * * *	*
[REVISE]	
Methyl salicylate	**Y**
* * * * * *	*
Neodecanoic acid	**Y**
Nitrilotriacetic acid, trisodium salt solution	**Y**
[ADD]	
Nitroethane	**Y**
Nitroethane (80%)/Nitropropane (20%)	**Y**
Nitroethane/1-Nitropropane (each 15% or more) mixture	**Y**
Nitropropane (60%)/Nitroethane (40%) mixture	Y
* * * * * *	*
[REVISE]	
Nonyl phenol sulfide (alternately *sulphide*) *(90% or less), see* Alkyl (C8–C40) phenol sulfide (alternately sulphide).	
Noxious liquid, F, (2) n.o.s. (“trade name” contains “principal components”) ST 1, Cat X	X
Noxious liquid, F, (4) n.o.s. (“trade name” contains “principal components”) ST 2, Cat X	X
Noxious liquid, F, (6) n.o.s. (“trade name” contains “principal components”) ST 2, Cat Y	Y
Noxious liquid, F, (8) n.o.s. (“trade name” contains “principal components”) ST 3, Cat Y	Y
Noxious liquid, F, (10) n.o.s. (“trade name” contains “principal components”) ST 3, Cat Z	Z
Noxious liquid, (11) n.o.s. (“trade name” contains “principal components”) Cat Z (if flammable or combustible)	Z
Non noxious liquid, (12) n.o.s. (“trade name” contains “principal components”) Cat OS (if flammable or combustible)	OS

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of this table for an explanation of symbols and terms used in this table. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by a tank barge.]

Cargo name	IMO Annex II pollution category
* * * * * *	*
Octadecanol (Oleyl alcohol), see Alcohols (C13+).	
Octadecene, see the olefin or alpha-olefin entries.	
* * * * * *	*
Octamethylcyclotetrasiloxane	**Y**
* * * * * *	*
n-Octyl acetate	**Y**
* * * * * *	*
Octyl phthalate, see Dioctyl phthalate.	
* * * * * *	*
[ADD]	
Olefin mixture (C7–C9) C8 rich, stabilized	**X**
* * * * * *	*
[REVISE]	
Oleyl alcohol (Octadecanol), see Alcohols (C13+).	
[ADD]	
Olive oil	Y
[REVISE]	
Orange juice (concentrated)	**OS**
* * * * * *	*
Palm kernel olein	**Y**
Palm kernel stearin	**Y**
Palm mid-fraction	**Y**
[ADD]	
Palm kernel fatty acid distillate	**Y**
Palm oil	Y
[REVISE]	
Palm oil fatty acid methyl ester	Y
Palm olein	**Y**
Palm stearin	**Y**
Paraffin wax, see Waxes: Paraffin.	
n-Paraffins (C10–C20), see n-Alkanes (C10+) all isomers.	
[ADD]	
Paraldehyde-ammonia reaction product	**Y**
[REVISE]	
Peanut oil, see Groundnut oil.	
* * * * * *	*
Pentadecanol, see Alcohols (C13+).	
[ADD]	
1,3-Pentadiene	**Y**
1,3-Pentadiene (greater than 50%), cyclopentene and isomers, mixtures	**Y**
* * * * * *	*
[REVISE]	
Phosphosulfurized (alternately Phosphosulphurized) bicyclic terpene	#
* * * * * *	*
Pinene, see the alpha- or beta- isomers.	
* * * * * *	*
Pine oil	X
[ADD]	
Piperazine (70% or less)	**Y**
[REVISE]	
Polyalkyl (C18–C22) acrylate in xylene	**Y**
* * * * * *	*
Polyalkylalkenaminesuccinimide, molybdenum oxysulfide (alternately oxysulphide)	**Y**
Polyalkylene glycol butyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.	

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of this table for an explanation of symbols and terms used in this table. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by a tank barge.]

Cargo name	IMO Annex II pollution category
* * * * * *	*
Polyalkyl (C10–C20) methacrylate	Y
Polyalkyl (C10–C18) methacrylate/Ethylene-propylene copolymer mixture	**Y**
Polybutadiene, hydroxyl terminated	#
* * * * * *	*
Poly(2+)cyclic aromatics	**X**
* * * * * *	*
Poly(ethylene glycol) methylbutenyl ether (molecular weight >1000)	**Z**
Polyethylene glycol monoalkyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.	
* * * * * *	*
Polyisobutenamine in aliphatic (C10–C14) solvent	**Y**
* * * * * *	*
Poly(4+)isobutylene (molecular weight >224)	**X**
[ADD]	
Polyisobutylene (molecular weight ≤224)	**Y**
* * * * * *	*
Polyolefin (molecular weight 300+)	Y
* * * * * *	*
[REVISE]	
Polyolefin amide alkeneamine (C28+), see Polyolefin amide alkeneamine (C17+).	
* * * * * *	*
Polyolefin amide alkeneamine/Molybdenum oxysulfide (alternately oxysulphide) mixture	#
* * * * * *	*
Polyolefinamine (C28–C250)	**Y**
Polyolefinamine in alkyl (C2–C4) benzenes	**Y**
Polyolefinamine in aromatic solvent	**Y**
Polyolefin aminoester salts (molecular weight 2000+)	**Y**
* * * * * *	*
Polyolefin phosphorosulfide (alternately phosphorosulphide), barium derivative (C28–C250)	Y
* * * * * *	*
[ADD]	
Polypropylene glycol	Z
[REVISE]	
Polypropylene glycol methyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether	
* * * * * *	*
[ADD]	
Poppy seed oil	#
* * * * * *	*
Propane	LFG
2-Propene-1-aminium, N, N-dimethyl-N–2-propenyl-, chloride, homopolymer solution	**Y**
Propionaldehyde	**Y**
* * * * * *	*
[REVISE]	
Propylbenzene (all isomers), *see* Alkyl(C3–C4) benzenes.	
[ADD]	
iso-Propylbenzene, see Alkyl(C3–C4) benzenes.	
n-Propylbenzene, see Alkyl(C3–C4) benzenes.	
iso-Propylcyclohexane, see Isopropylcyclohexane.	
Propylene	LFG
* * * * * *	*
Pseudocumene, see Trimethylbenzenes (all isomers).	
* * * * * *	*
Rapeseed oil	Y
Rapeseed oil fatty acid methyl esters	**Y**

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of this table for an explanation of symbols and terms used in this table. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by a tank barge.]

Cargo name	IMO Annex II pollution category
* * * * * * *	
[ADD]	
Rice bran oil	Y
* * * * * * *	
[REVISE]	
Rosin, see Rosin oil.	
Rosin oil	Y
Rum, see Alcoholic beverages, n.o.s.	
[ADD]	
Safflower oil	Y
* * * * * * *	
Sodium bromide solution (less than 50%)	**Y**
Sodium carboxylate solution	**Y**
* * * * * * *	
Sodium methylate 21 to 30% in methanol	**Y**
[REVISE]	
Sodium thiocyanate solution (56% or less)	**Y**
* * * * * * *	
[ADD]	
Soyabean oil	Y
[REVISE]	
Soyabean oil (epoxidized)	#
Soyabean oil fatty acid methyl ester	**Y**
Spindle oil	I
* * * * * * *	
Sulfohydrocarbon (alternately Sulphohydrocarbon) (C3–C88)	Y
Sulfohydrocarbon (alternately Sulphohydrocarbon), long-chain (C18+) alkylamine	#
Sulfolane (alternately Sulpholane)	Y
Sulfurized (alternately Sulphurized) fat (C14–C20)	Z
Sulfurized (alternately Sulphurized) polyolefinamide alkene(C28–C250) amine	Z
* * * * * * *	
[ADD]	
Tall oil, crude	**Y**
[REVISE]	
Tall oil, distilled	**Y**
* * * * * * *	
[ADD]	
Tall oil pitch	**Y**
Tall oil soap, crude	**Y**
* * * * * * *	
[REVISE]	
Tetradecylbenzene, see Alkyl (C9+) benzenes.	
* * * * * * *	
Tetraethyl silicate monomer/oligomer (20% in ethanol)	**Z**
* * * * * * *	
Tetramethylbenzene (all isomers)	**X**
* * * * * * *	
[ADD]	
Tricresyl phosphate (less than 1% ortho isomer)	Y
[REVISE]	
Tridecane, see n-Alkanes (C10+) (all isomers).	
* * * * * * *	
Tridecylbenzene, see Alkyl (C9+) benzenes.	
* * * * * * *	
Triethylene glycol butyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.	

TABLE 30.25–1—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

[See NOTES at the end of this table for an explanation of symbols and terms used in this table. See Table 2, 46 CFR part 153, for additional cargoes that may be carried by a tank barge.]

Cargo name	IMO Annex II pollution category
* * * * * * *	
Triethylene glycol ethyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.	
Triethylene glycol methyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.	
* * * * * * *	
[ADD]	
Trimethylamine solution (30% or less)	**Z**
* * * * * * *	
[REVISE]	
2,2,4-Trimethyl-1,3-pentanediol-1-isobutyrate	**Y**
* * * * * * *	
Tripropylene glycol methyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.	
[ADD]	
1,3,5-Trioxane	**Y**
* * * * * * *	
Tung oil	Y
* * * * * * *	
[REVISE]	
Undecylbenzene, see Alkyl (C9+) benzenes.	
* * * * * * *	
Vegetable protein solution (hydrolyzed) (if flammable or combustible)	**OS**
[ADD]	
Vinyltoluene	**Y**
* * * * * * *	
[REVISE]	
Waxes:	
Candelilla	Y
Carnauba	Y
Paraffin	Y
† *White spirit, see* White spirit, low (15–20%) aromatic.	
* * * * * * *	
Wine, see Alcoholic beverages, n.o.s.	
[ADD]	
Wood lignin with sodium acetate/oxalate	**Z**
* * * * * * *	
[REVISE]	
Xylenes/Ethylbenzene (10% or more) mixture	**Y**
* * * * * * *	

Notes:

"#" = The noxious liquid substance status is undetermined—see 46 CFR 153.900(c) for shipping on an oceangoing vessel.

"†" = Marine occupational safety and health regulations for benzene, 46 CFR part 197, subpart C, may apply to this cargo.

"[ ]" = Provisional categorization to which the United States is party.

"@" = The noxious liquid substance category has been assigned by the Coast Guard, in the absence of one assigned by the IMO. The category is based on a GESAMP Hazard Profile or, by analogy, to a closely related product having a noxious liquid substance assigned.

Bolded entries were added from the March 2012 Annex to the 2007 edition of the IBC Code (MEPC 63/23/Add.1), the December 2012 IMO Marine Environmental Protection Committee Circular (MEPC.2/Circ.18), or the December 2013 IMO Marine Environmental Protection Committee Circular (MEPC.2/Circ.19).

"Cat" = Pollution category.

"F" = Flammable (flash point less than or equal to 60° C (140 °F).

"I" = An "oil" under MARPOL Annex I.

Italicized words are not part of the cargo name, but may be used in addition to the cargo name.

"LFG" = Liquid flammable gas.

"n.o.s." = Not otherwise specified.

"OS" = An "other substance" considered at present to pose no harm to marine resources, human health, amenities, or other legitimate uses of the sea when discharged into the sea from tank cleaning or deballasting operations.

"see" = A redirection to the preferred, alternative cargo name—for example, in "*Diethyl ether, see* Ethyl ether," the pollution category for "diethyl ether" will be found under the preferred, alternative cargo name "ethyl ether."

"ST" = Ship type, as defined in Chapter 2 of the 2016 International Bulk Chemical Code.

"X," "Y," and "Z" = Noxious liquid substance categories under MARPOL Annex II.

PART 150—COMPATIBILITY OF CARGOES

■ 3. The authority citation for part 150 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; Department of Homeland Security Delegation No. 0170.1. Section 150.105 issued under 44 U.S.C. 3507; Department of Homeland Security Delegation No. 0170.1.

§ 150.120 [Amended]

■ 4. In § 150.120, remove the text ''Table I'' and add, in its place, the text ''Table 1''.

§ 150.130 [Amended]

■ 5. In § 150.130, in paragraph (a) introductory text, remove the text ''table I'' and add, in its place, the text ''Table 1''.

■ 6. In § 150.140, revise the section heading to read as follows:

§ 150.140 Cargoes not listed in Table 1 or 2.

* * * * *

■ 7. Amend Table I to Part 150 by:

■ a. Revising the table heading;

■ b. Removing the entries for:

■ i. ''Alkanes (C10–C26), linear and branched (flash point >60 °C)* '';

■ ii. ''*Ammonium nitrate/Urea solution (containing less than 2% free Ammonia)*'';

■ iii. ''*Ethylene glycol iso-propyl ether*'';

■ iv. Benzene sulfonyl chloride;

■ v. ''*Gylcidyl ester of tridecyl acetic acid, see* Glycidyl ester of C10 triakyl acetic acid'';

■ vi. ''Noxious Liquid Substance, n.o.s. (NLS')'';

■ vii. ''ROUNDUP'';

■ viii. ''Ucarsol CR Solvent 302 SG''; and

■ ix. ''Urea/Ammonium nitrate solution*''.

■ c. Adding in alphabetical order the entries marked ''[ADD]'' and revising the entries marked ''[REVISE]''; and

■ d. Revising the notes at the end of the table.

The revisions and addtitions read as follows:

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
* * * *		*	*	*
[REVISE]				
Acetonitrile (low purity grade)	37	3	AIL.	
* * * *		*	*	*
Acid oil mixture from soyabean, corn (maize) and sunflower oil refining, see Oil, misc.: Acid mixture from soyabean, corn (maize), and sunflower oil refining.		3		AOM
* * * *		*	*	*
Acrylamide solution (50% or less)	10	3	AAM	AAO
* * * *		*	*	*
Acrylic acid/ethenesulfonic (alternately ethenesulphonic) acid copolymer with phosphonate groups, sodium salt solution.	30	3	APG.	
* * * *		*	*	*
Alachlor technical (90% or more)	33	3	ALH	ALI
Alcohol (C12–C13, branched and linear) poly(4–8) propoxy sulfates (alternately sulphates, sodium salt 25–30% solution.	41	3	ABL.	
Alcohol (C9–C11) poly(2.5–9) ethoxylates	20	3	AET	ALY/APV/APW
Alcohol (C6–C17) (secondary) poly(3–6) ethoxylates	20	3	AEA	AEB
Alcohol (C6–C17) (secondary) poly(7–12) ethoxylates	20	3	AEB	AEA
Alcohol (C12–C16) poly(1–6) ethoxylates	20	3	AED	AET/ALY/APW
Alcohol (C12–C16) poly(7–19) ethoxylates	20	3	APV	AET/ALY/APV
Alcohol (C12–C16) poly(20+) ethoxylates	20	3	APW	AET/ALY
Alcohol (C12–C15) poly (. . .) ethoxylate, see Alcohol (C12–C16) poly (. . .) ethoxylate.				
Alcohol polyethoxylates	20			AEA/AEB/AED/AET/APV/APW
Alcohol polyethoxylates, secondary	20			AEA/AEB
Alcoholic beverages, n.o.s.	20	3	ABV.	
Alcohols (C12+), primary, linear	20	3	ASY	ALR/AYK/AYL
Alcohols (C8–C11), primary, linear, and essentially linear	20		ALR	AYK/AYL
Alcohols (C12–C13), primary, linear, and essentially linear	20	3	AYK	ALR/ASY/AYL
Alcohols (C14–C18), primary, linear, and essentially linear	20	3	AYL	ALR/ASY/AYK
Alcohols (C13+)	20		ALY	ASY/AYK
Including:				
Cetyl alcohol (Hexadecanol)	20			
Oleyl alcohol (Octadecenol)	20			
Pentadecanol	20			
Tallow alcohol	20			
Tetradecanol	20			
Tridecanol	20			
Alkanes (C10–C26), linear and branched (flash point >60 °C)	31	3	ABD.	
Alkanes (C10–C26), linear and branched (flash point ≤ 60 °C)	31	3	ABE.	
Alkanes (C6–C9)	31		ALK.	
Including:				
Heptanes	31			

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Hexanes	31			
Nonanes	31			
Octanes	31			
iso- & cyclo-Alkanes (C10–C11)	31		AKI.	
iso- & cyclo-Alkanes (C12+)	31		AKJ.	
[ADD]				
n-Alkanes (C9–C11)	31	3		
[REVISE]				
n-Alkanes (C10+) (all isomers)	31		ALV	ALJ
Including:				
Decanes	31			
Dodecanes	31			
Heptadecanes	31			
n-Paraffins (C10–C20)	31		PFN	ALJ
Tridecanes	31			
Undecanes	31			
Alkane (C14–C17) sulfonic (alternately *sulphonic*) *acid, sodium salt solutions, see* Sodium alkyl (C14–C17) sulfonates (alternately sulphonates) (60–65% solution).			AKA	SAA (AKE/SSU)
* * * *		*	*	*
Alkenoic acid, polyhydroxy ester borated	0	1, 3	AAY.	
Alkenyl (C11+) amide	10		AKM.	
Alkenyl (C8+) amine, Alkenyl (C12+) acid ester mixture	34		AAA.	
Alkenyl (C16–C20) succinic anhydride	11		AAH.	
Alkyl acrylate-Vinyl pyridine copolymer in Toluene	32		AAP.	
Alkyl amine (C17+)	7		AKY.	
Alkylaryl phosphate mixtures (more than 40% Diphenyl tolyl phosphate, less than 0.02% ortho-isomers).	34		ADP.	
Alkylated (C4–C9) hindered phenols	21	3	AYO.	
Alkyl (C3–C4) benzenes	32		AKC.	
Including:				
Butylbenzenes	32	3		
Cumene	32			
Propylbenzenes	32			
Alkyl (C5–C8) benzenes	32		AKD.	
Including:				
Amylbenzenes	32			
Heptylbenzenes	32			
Hexylbenzenes	32			
Octylbenzenes	32			
Alkyl (C9+) benzenes	32		AKB.	
Including:				
Decylbenzenes	32			
Dodecylbenzenes	32			
Nonylbenzenes	32			
Tetradecylbenzenes	32			
Tetrapropylbenzenes	32			
Tridecylbenzenes	32			
Undecylbenzenes	32			
Alkyl benzene distillation bottoms	0	1, 3	ABB.	
Alkylbenzene mixtures (containing at least 50% of Toluene)	32	3	AZT.	
Alkylbenzene, Alkylindane, Alkylindene mixture (each C12–C17)	32		AIH.	
Alkyl (C11–C17) benzene sulfonic (alternately sulphonic) acid	0	1, 3	ABN	ABS/ABQ
Alkylbenzene sulfonic (alternately sulphonic) acid (less than 4%)	0	1, 2	ABQ	ABS/ABN
Alkylbenzene sulfonic (alternately sulphonic) acid, sodium salt solution	33		ABT.	
Alkyl (C12+) dimethylamine	7	3	ADM.	
Alkyl dithiocarbamate (C19–C35)	34	3	ADB.	
Alkyl dithiothiadiazole (C6–C24)	33		ADT.	
Alkyl ester copolymer (C4–C20)	34		AES	AEQ
Alkyl ester copolymer in mineral oil	34		AEQ	AES
Alkyl (C7–C9) nitrates	34	2	AKN	ONE
Alkyl (C7–C11) phenol poly(4–12) ethoxylate	40		APN	NPE
Alkyl (C4–C9) phenols	21		AYI	BLT/BTP/NNP/OPH
*Alkyl phenol sulfide (*alternately *sulphide) (C8–C40), see* Alkyl (C8–C40) phenol sulfide.				AKS
Alkyl (C8–C40) phenol sulfide (alternately sulphide)	34		AKS.	
Alkyl (C9–C15) phenyl propoxylate	40		AXL.	
Alkyl (C8–C9) phenylamine in aromatic solvents	9		ALP.	
n-Alkyl phthalates, see individual phthalates			AYS.	
Alkyl polyglucoside solution, see individual polyglucoside solutions			AGD	AGL/AGM/AGN/AGO/AGP

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Alkyl (C8–C10) polyglucoside solution (65% or less)	43	3	AGL	AGD/AGM/AGN/AGO/AGP
Alkyl (C8–C10)/(C12–C14):(40% or less/60% or more) polyglucoside solution (55% or less).	43	3	AGN	AGD/AGL AGM/AGO/AGP
Alkyl (C8–C10)/(C12–C14):(50%/50%) polyglucoside solution (55% or less)	43	3	AGO	AGD/AGL/AGN/AGP
Alkyl (C8–C10)/(C12–C14):(60% or more/40% or less) polyglucoside solution (55% or less).	43	3	AGP	AGD/AGL/AGM/AGN/AGO
Alkyl (C12–C14) polyglucoside solution (55% or less)	43	3	AGM	AGD/AGL/AGN/AGO/AGP
Alkyl (C12–C16) propoxyamine ethoxylates	8	3	AXE	LPE
Alkyl (C10–C20), saturated and unsaturated phosphite	34		AKL.	
* * * *		*	*	*
Alkyl sulfonic (alternately sulphonic) acid ester of phenol	34		AKH.	
Alkyl toluene	32		AYL	AUS
Alkyl (C18+) toluenes	32	3	AUS	AYL
Alkyl (C18–C28) toluenesulfonic (alternately toluenesulphonic) acid	0	1, 3	AUU.	
Alkyl (C18–C28) toluenesulfonic (alternately toluenesulphonic) acid, Calcium salts, borated.	34	3	AUB.	
Alkyl (C18–C28) toluenesulfonic (alternately toluenesulphonic) acid, Calcium salts, high overbase.	33	3	AUC.	
Alkyl (C18–C28) toluenesulfonic (alternately toluenesulphonic) acid, Calcium salts, low overbase.	33	3	AUL.	
* * * *		*	*	*
Aluminum (alternately, *Aluminium*) chloride/*Hydrochloric acid solution,* see "Aluminum (alternately, Aluminium (chloride/Hydrogen chloride solution".		1	AHS	AHG
Aluminum (alternately Aluminium) chloride/Hydrogen chloride solution	0	1, 3	AHG	AHS
Aluminum (alternately Aluminium) hydroxide/sodium hydroxide/sodium carbonate solution (40% or less).	5	3	AHN.	
Aluminum sulfate (alternately Aluminium sulphate) solution	43	2	ASX	ALM
Amine C–6, morpholine process residue	9		AOI.	
Aminoethyldiethanolamine/Aminoethylethanolamine solution	8		ADY.	
2-(2-Aminoethoxy) ethanol	8		AEX.	
Aminoethylethanolamine	8		AEE.	
* * * *		*	*	*
Ammonia, aqueous (28% or less Ammonia), see Ammonium hydroxide				AMH
Ammonium bisulfite (alternately bisulphite) solution (70% or less)	43	2	ABX	ASU
Ammonium chloride solution (less than 25%)	43	3	AIS	AMC
* * * *		*	*	*
Ammonium lignosulfonate (alternately *lignosulphonate*) solution, see also Lignin liquor.			ALG	LNL
Ammonium nitrate solution (45% or less)	0	1	AND	AMN/ANR/ANW
Ammonium nitrate solution (93% or less)	0	1	ANW	AMN/AND/ANR
Ammonium nitrate/Urea solution (containing Ammonia), see Urea/Ammonium nitrate solution (containing 1% or more Ammonia).				UAS (ANU/UAT/UAU/UAV)
Ammonium nitrate/Urea solution (not containing Ammonia), see Urea/Ammonium nitrate solution (containing less than 1% Ammonia).				UAU (ANU/UAS/UAT/UAV)
Ammonium phosphate/Urea solution, see Urea/Ammonium phosphate solution.				UAP (APP/URE)
* * * *		*	*	*
Ammonium sulfate (alternately sulphate) solution	43		ASW	AME/AMS
Ammonium sulfate (alternately sulphate) solution (20% or less)	43		AME	AMS/ASW
Ammonium sulfide (alternately sulphide) solution (45% or less)	5	3	ASS	ASF
Ammonium thiocyanate/Ammonium thiosulfate (alternately thiosulphate) solution.	0	1	ACV	ACS
Ammonium thiosulfate (alternately thiosulphate) solution (60% or less)	43	3	ATV	ATF
Amyl acetate (all isomers)	34	3	AEC	IAT/AML/AAS/AYA
* * * *		*	*	*
Amyl alcohol, primary	20	3	APM	AAI/AAL/AAN/APM/IAA
n-Amyl alcohol	20	3	AAN	AAI/AAL/APM/ASE/IAA
sec-Amyl alcohol	20	3	ASE	AAI/AAL/AAN/APM/IAA
tert-Amyl alcohol	20	3	AAL	AAI/APM/ASE/IAA
tert-Amyl methyl ether	41		AYE.	
Amyl methyl ketone, see Methyl amyl ketone			AMJ	MAK (AMK)
Amylene, see Pentene (all isomers)			AMW	PTX (AMX/AMZ/PTE)
tert-Amylenes, see Pentene (all isomers)			AMZ	PTX (AMW)
Aniline	9		ANL.	

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Animal and Fish oils, n.o.s.	34		AFN.	
Including:				
Cod liver oil	34			
Lanolin	34			
Neatsfoot oil	34			
Pilchard oil	34			
Sperm oil	34			
Animal and Fish acid oils and distillates, n.o.s.	34		AFA.	
Including:				
Animal acid oil	34			
Fish acid oil	34			
Lard acid oil	34			
Mixed acid oil	34			
Mixed general acid oil	34			
Mixed hard acid oil	34			
Mixed soft acid oil	34			
Anthracene oil (Coal tar fraction), see Coal tar			AHO	COR
* * * *		*	*	*
Argon, liquefied	0	1	ARG.	
Aryl polyolefin (C11–C50)	30		AYF.	
* * * *		*	*	*
Aviation alkylates (C8 paraffins and isoparaffins BPT 95–120 °C)	33	3	AVA	GAK/GAV
Barium long-chain (C11–C50) alkaryl sulfonate (alternately sulphonate)	34		BCA.	
Barium long-chain alkyl (C8–C14) phenate sulfide (alternately sulphide)	34		BCH.	
* * * *		*	*	*
Benzene hydrocarbon mixtures (containing Acetylenes) (having 10% Benzene or more).	32		BHA	BHB/BNZ/PYG
Benzene/Toluene/Xylene mixtures (having 10% Benzene or more)	32		BTX	BHB/BNZ/PYG/TOL/XLX/XLM/XLO/XLP
[ADD]				
Benzenesulfonyl (alternately Benzenesulphonyl) chloride	0	1, 2	BSC.	
* * * *		*	*	*
[REVISE]				
Bio-fuel blends of Diesel/gas oil and Alkanes (C10–C26), linear and branched with a flash point >60 °C (>25% but <99% by volume).	33	3	BIF	BIG/BIH/BII/BIJ/BIK
Bio-fuel blends of Diesel/gas oil and Alkanes (C10–C26), linear and branched with a flash point ≤ 60 °C (>25% but <99% by volume).	33	3	BIG	BIF/BIH/BII/BIJ/BIK
Bio-fuel blends of Diesel/gas oil and FAME (>25% but <99% by volume)	34	3	BIH	BIF/BIG/BII/BIJ/BIK
Bio-fuel blends of Diesel/gas oil and vegetable oil (>25% but <99% by volume).	34	3	BII	BIF/BIG/BIH/BIJ/BIK
Bio-fuel blends of Gasoline and Ethyl alcohol (>25% but <99% by volume)	20	2, 3	BIJ	BIF/BIG/BIH/BII/BIK
[ADD]				
Bis (2-ethylhexyl) terephthalate	34		DHH.	
[REVISE]				
Boronated Calcium sulfonate (alternately sulphonate)	34		BCU.	
Brake fluid base mix: Poly(2–8)alkylene (C2–C3) glycols/Polyalkylene (C2–C10) glycols monoalkyl (C1–C4) ethers and their borate esters.	20	3	BFY.	
Brominated Epoxy Resin in Acetone	16		BER.	
* * * *		*	*	*
1,4-Butanediol, see Butylene glycol			BDO	BUG
2-Butanone, see Methyl ethyl ketone		2		MEK
Butene oligomer	30		BOL.	
Butene, see Butylenes (all isomers)				BUT/IBL
[ADD]				
2-Butoxyethanol (58%)/Hyperbranched polyesteramide (42%) (mixture)	20			
[REVISE]				
Butyl acetate (all isomers)	34	3	BAX	BCN/BTA/BYA/IBA
Butyl acrylate (all isomers)	14	3	BAR	BAI/BTC
Butyl alcohol (all isomers)	20	2	BAY	BAN/BAS/BAT/IAL
Butyl alcohol (*iso-, n-, sec-, tert-*), *see* Butyl alcohol (all isomers)		2		BAN/BAS/BAT/BAY/IAL
Butylamine (all isomers)	7	3	BTY	BAM/BTL/BUA/IAM
Butylbenzene (*all isomers*), *see* Alkyl (C3–C4) benzenes		3	BBE	AKC
Butyl benzyl phthalate	34		BPH.	
Butyl butyrate (all isomers)	34	3	BBA	BIB/BUB
Butylene glycol	20	2	BUG	BDO
1,2-Butylene oxide	16		BTO.	

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Butylenes (all isomers)	30		BTN	IBL
n-Butyl ether	41	3	BTE.	
[ADD]				
iso-Butyl formate, see Isobutyl formate		3	BFI	BFN/BFO
* * * *		*	*	*
[REVISE]				
Butyl methacrylate, Decyl methacrylate, Cetyl-Eicosyl methacrylate mixture, see Butyl/Decyl/Cetyl/Eicosyl methacrylate mixture.		3		DER (BMH/BMI/BMN/CEM)
Butyl/Decyl/Cetyl/Eicosyl methacrylate mixture	14	3	DER	BMH/BMI/BMN/CEM
Butyl methyl ketone, see Methyl butyl ketone		2		MBJ (MBK/MIK)
[ADD]				
Butyl phenol, Formaldehyde resin in Xylene	32			
* * * *		*	*	*
[REVISE]				
Butyraldehyde (all isomers)	19	3	BAE	BAD/BTR
* * * *		*	*	*
[ADD]				
C9 Resinfeed (DSM)	32	2	CNR.	
[REVISE]				
Calcium alkaryl sulfonate (alternately *sulphonate*) (C11–C50), *see* Calcium long-chain alkaryl sulfonate (alternately sulphonate) (C11–C50).		3	CAE	CAY
Calcium alkyl (C9) phenol sulfide (alternately sulphide), polyolefin phosphorosulfide (alternately phosphorosulphide) mixture.	34		CPX.	
Calcium alkyl (C10–C28) salicylate	34	3	CAJ.	
Calcium bromide solution, see Drilling brines			CBI	DRB
Calcium bromide/Zinc bromide solution, see Drilling brine (containing Zinc salts).				DZB
* * * *		*	*	*
Calcium chloride solution, see Drilling brines			CCS	CLC
* * * *		*	*	*
Calcium hypochlorite solution (15% or less)	5	3	CHU	CHY/CHZ
Calcium hypochlorite solution (more than 15%)	5	3	CHZ	CHU/CHY
Calcium lignosulfonate (alternately *lignosulphonate*) solution, *see* also Lignin liquor.			CLL	LNL
Calcium long-chain alkaryl sulfonate (alternately sulphonate) (C11–C50)	34		CAY.	
Calcium long-chain alkyl (C8–C40) *phenate, see* Calcium long-chain alkyl (C5–C10) phenate or Calcium long-chain alkyl (C11–C40) phenate.			CAQ	CAU/CAV (CAN/CAW)
Calcium long-chain alkyl (C5–C10) phenate	34	3	CAU	CAN/CAQ/CAV/CAW
Calcium long-chain alkyl (C5–C20) phenate	34		CAV	CAN/CAQ/CAU/CAW
Calcium long-chain alkyl (C11–C40) phenate	34	3	CAW	CAN/CAQ/CAU/CAV
Calcium long-chain alkyl phenate sulfide (alternately sulphide) (C8–C40)	34		CPI.	
Calcium long-chain alkyl phenolic amine (C8–C40)	9		CPQ.	
Calcium long-chain alkyl (C18–C28) salicylate	34	3	CAJ.	
Calcium long-chain alkyl salicylate (C13+)	34		CAK	CAJ/CAZ
Calcium nitrate solutions (50% or less)	34	3	CNU	CNT
* * * *		*	*	*
Calcium sulfonate (alternately sulphonate)/Calcium carbonate/Hydrocarbon solvent mixture.	33		CSH.	
Camelina oil, see Oil, misc.: Camelina		3	CEL.	
* * * *		*	*	*
Canola oil, see Oil, edible: Rapeseed (low erucic acid containing less than 4% free fatty acids).				ORO (ORP)
[ADD]				
Caprolactam solution, see epsilon-Caprolactam (molten or aqueous solutions).			CLS.	
[REVISE]				
epsilon-Caprolactam (molten or aqueous solutions)	22	3	CLU	CLS
Caramel solutions	43		CML.	
Carbolic oil	21		CBO.	
Carbon dioxide (high purity)	0	1	CDH	CDO/CDQ
Carbon dioxide (reclaimed quality)	0	1	CDQ	CDH/CDO
Carbon dioxide, liquefied	0	1	CDO	CDH/CDQ
Carbon disulfide (alternately disulphide)	38		CBB.	
Carbon tetrachloride	36	2	CBT	CBU

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Cashew nut shell oil (untreated), see Oil, misc.: Cashew nut shell (untreated).				OCN
* * * *	*	*	*	*
Cesium formate solution	43	3	CSM	
Cetyl alcohol (Hexadecanol), see Alcohols (C13+)				ALY (ASY/AYL)
* * * *	*	*	*	*
Cetyl/Stearyl alcohol, see Alcohols (C13+)				ALY (ASY/AYL)
* * * *	*	*	*	*
Chlorinated paraffins (C14–C17) (with 50% Chlorine or more, and less than 1% C13 or shorter chains).	36	3	CLJ	CLG/CLH/CLQ
* * * *	*	*	*	*
Chlorinated paraffins (C18+) with any level of chlorine	36		CLG	CLH/CLJ
* * * *	*	*	*	*
Chloroacetic acid (80% or less)	4	3	CHM	CHL/MCA
Chlorobenzene	36	2	CRB.	
Chlorodifluoromethane, see Monochlorodifluoromethane			MCF.	
2-Chloro-4-ethylamino-6-isopropylamino-5-triazine solution	0	1	CET.	
1-(4-Chlorophenyl)-4,4-dimethyl pentan-3-one	18	2	CDP.	
2- or 3-Chloropropionic acid	4		CPM	CLA/CLP
Chloroform	36		CRF.	
Chlorohydrins (crude)	17	3	CHD.	
4-Chloro-2-methylphenoxyacetic acid, dimethylamine salt solution	9		CDM.	
o-Chloronitrobenzene	42		CNO	CNP
Chlorosulfonic (alternately Chlorosulphonic) acid	0	1	CSA.	
m-Chlorotoluene	36	3	CTM	CHI/CRN/CTO
o-Chlorotoluene	36	3	CTO	CHI/CRN/CTM
p-Chlorotoluene	36	3	CRN	CHI/CTM/CTO
Chlorotoluenes (mixed isomers)	36	3	CHI	CRN/CTM/CTO
Choline chloride solutions	20		CCO.	
Citric acid (70% or less)	4	3	CIS	CIT
* * * *	*	*	*	*
Coal tar distillate, see Naphtha: Coal tar solvent			CDL	NCT (CTU)
Coal tar naphtha solvent, see Naphtha: Coal tar solvent				NCT (CDL/CTU)
* * * *	*	*	*	*
Coal tar pitch (molten)	33	3	CTP.	
[ADD]				
Coal tar, high temperature	33		CHH.	
Cobalt naphthenate in solvent naphtha	34		CNS.	
[REVISE]				
Cocoa butter, see Oil, edible: Cocoa butter				OCB (VEO)
Coconut oil, see Oil, edible: Coconut				OCC (VEO)
Coconut oil, fatty acid, see Oil, misc.: Coconut fatty acid		2		CFA
Coconut oil, fatty acid methyl ester, see Oil, misc.: Coconut fatty acid methyl ester.		3		OCM
* * * *	*	*	*	*
Corn oil, see Oil, edible: Corn				OCO (VEO)
[ADD]				
Corn syrup	43		CSY.	
[REVISE]				
Cottonseed oil, see Oil, edible: Cottonseed				OCS (VEO)
Cottonseed oil, fatty acid, see Oil, misc.: Cottonseed oil, fatty acid			CFY.	
Creosote	21	2	CCW	CCT/CWD
Creosote (coal tar)	21	2, 3	CCT	CCW
Creosote (wood tar)	21	2, 3	CWD	CCT/CCW
Cresols (all isomers)	21	3	CRS	CFO/CFP/CRL/CRO/CSC/CSO
Cresols with 5% or more Phenol, see Phenol			CFP	PHN (CFO/CRL/CRO/CRS/CSO)
Cresols with less than 5% Phenol, see Cresols (all isomers)			CFO	CRS (CFP/CRL/CRO/CSO)
Cresylate spent caustic, see Cresylic acid, sodium salt solution		2	CSC	CYD
[ADD]				
Cresylic acid	21		CRY.	

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
[REVISE]				
Cresylic acid, dephenolized	21		CAD	CRY/CYN
Cresylic acid tar	21		CRX.	
Cresylic acid with 5% or more phenol	21		CYN	CAD/CRY
Cresylic acid, sodium salt solution	5	2	CYD	CSC
Crotonaldehyde	19	2	CTA.	
Crude Isononylaldehyde, see Isononyldehyde (crude)				INC
Crude Isopropanol	20			IPB (IPA/PAL)
Crude Piperazine, see Piperazine (crude)				PZC (PPZ/PIZ)
Cumene, see Alkyl(C3–C4) benzenes			CUM	AKD (PBY/PBZ)
* * * *		*	*	*
Cyclohexanone/Cyclohexanol mixtures	18	2	CYX.	
* * * *		*	*	*
Cyclopentadiene/Styrene/Benzene mixture	30		CSB.	
1,3-Cyclopentadiene dimer (molten)	30	3	CPD	DPT/DPV
Cyclopentane	31		CYP.	
Cyclopentene	30		CPE.	
p-Cymene	32		CMP.	
* * * *		*	*	*
[ADD]				
iso-Decaldehyde, see Isodecaldehyde.				
n-Decaldehyde	19			
[REVISE]				
Decane (all isomers), see n-Alkanes (C10+) (all isomers)			DCC	ALV (ALJ)
* * * *		*	*	*
Decyl alcohol (all isomers)	20	2, 3	DAX	ISA/DAN
Decyl/Dodecyl/Tetradecyl alcohol mixture	20	3	DYO	DAN/DAX/DDN/ISA
Decylbenzene, see Alkyl (C9+) benzenes			DBZ	AKB
* * * *		*	*	*
Dextrose solution, see Glucose solution			DTS	GLU
* * * *		*	*	*
Dialkyl (C10–C14) benzenes, see Alkyl (C9+) benzenes			DAB	AKB
* * * *		*	*	*
Dialkyl (C7–C13) phthalates	34		DAH.	
Including:				
Di-(2-ethylhexyl) phthalate	34			
Diheptyl phthalate	34			
Dihexyl phthalate	34			
Diisooctyl phthalate	34			
Diisodecyl phthalate	34			
Diisononyl phthalate	34			
Dinonyl phthalate	34			
Dioctyl phthalate	34			
Ditridecyl phthalate	34			
Diundecyl phthalate	34			
Dialkyl (C9–C10) phthalates, see Dialkyl (C7–C13) phthalates			DLK	DLH (DAP/DHL/DHP/DID/DIE/DIF/DIN/DIO/DIT/DOP/DPA/DTP/DUP)
Dialkyl thiophosphates sodium salts solution	34	3	DYH.	
Dibromomethane	36		DBH.	
Dibutyl carbinol, see Nonyl alcohol (all isomers)				NNS (DBC/NNI/NNN)
Dibutyl hydrogen phosphonate	34		DHD.	
Dibutyl phthalate	34		DPA	DIT
Dibutyl terephthalate	34	3	DYE.	
Dibutylamine	7		DBA.	
Dibutylphenols	21		DBT.	
Di-tert-butylphenol	21		DBF	DBT/DBV/DBW
2,4-Di-tert-butylphenol	21		DBV	DBF/DBT/DBW
2,6-Di-tert-butylphenol	21	3	DBW	DBF/DBT/DBV
Dichlorobenzene (all isomers)	36	3	DBX	DBM/DBO/DBP
* * * *		*	*	*
1,1-Dichloroethane	36		DCH.	
Dichloroethyl ether	41	3	DYR	DEE

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
* * * *		*	*	*
2,4-Dichlorophenoxyacetic acid/Diethanolamine salt solution	43		DDE.	
2,4-Dichlorophenoxyacetic acid/Dimethylamine salt solution (70% or less)	0	1, 2, 3	DDA	DAD/DSX
2,4-Dichlorophenoxyacetic acid/Triisopropanolamine salt solution	43	2	DTI.	
[ADD]				
Dichloropropane	36		DPX.	
[REVISE]				
1,1-Dichloropropane	36		DPB	DPC/DPL/DPP/DPX
1,2-Dichloropropane	36	2, 3	DPP	DPB/DPC/DPL/DPX
1,3-Dichloropropane	36		DPC	DPB/DPL/DPP/DPX
* * * *		*	*	*
2,2-Dichloropropionic acid	4		DCN.	
Dicyclopentadiene, Resin Grade, 81–89%	30	3	DPV	CPD/DPT
Dicyclopentadiene, see 1,3-Cyclopentadiene dimer (molten)			DPT	CPD (DPV)
Diethanolamine	8	2	DEA.	
Diethanolamine salt of 2,4-Dichlorophenoxyacetic acid solution, see 2,4-Dichlorophenoxyacetic acid, Diethanolamine salt solution.			DZZ	DDE
* * * *		*	*	*
Diethylene glycol butyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.			DME	PAG
Diethylene glycol butyl ether acetate, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether acetate.			DEM	PAF
[ADD]				
Diethylene glycol dibenzoate	34		DGZ.	
* * * *		*	*	*
[REVISE]				
Diethylene glycol ethyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.			DGE	PAG
Diethylene glycol ethyl ether acetate, see Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether acetate.			DGA	PAF
Diethylene glycol n-hexyl ether, see Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether.			DHE	PAG
Diethylene glycol methyl ether, see Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether.			DGM	PAG
Diethylene glycol methyl ether acetate, see Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether acetate.			DGR	PAF
* * * *		*	*	*
Diethylene glycol propyl ether, see Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether.			DGO	PAG
* * * *		*	*	*
Diethylethanolamine, see Diethylaminoethanol				DAE
* * * *		*	*	*
Diethyl hexanol, see Decyl alcohol (all isomers)				DAX
* * * *		*	*	*
Di-(2-ethylhexyl) phthalate, see Dialkyl (C7–C13) phthalate			DIE	DAH
* * * *		*	*	*
Diethyl sulfate (alternately sulphate)	34		DSU.	
Diglycidyl ether of Bisphenol A	16		BDE.	
Diglycidyl ether of Bisphenol F	16		DGF.	
Diheptyl phthalate, see Dialkyl (C7–C13) phthalate			DHP	DAH
* * * *		*	*	*
Dihexyl phthalate, see Dialkyl (C7–C13) phthalate			DHL.	
Diisobutyl carbinol, see Nonyl alcohol (all isomers)			DBC	NNS
Diisobutyl ketone	18		DIK.	
Diisobutyl phthalate	34		DIT	DPA
Diisobutylamine	7		DBU.	
Diisobutylene	30		DBL.	
Diisodecyl phthalate, see Dialkyl (C7–C13) phthalates			DID	DAH
* * * *		*	*	*
Diisononyl phthalate, see Dialkyl (C7–C13) phthalates		2	DIN	DAH

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Diisooctyl phthalate, see Dialkyl (C7–C13) phthalate			DIO	DAH/(DIE/DOP)
* * * *		*	*	*
1,4-Dihydro-9,10-dihydroxy anthracene, disodium salt solution	5		DDH.	
N,N-Dimethylacetamide	10		DAC	DLS
N,N-Dimethylacetamide solution (40% or less)	10	3	DLS	DAL
* * * *		*	*	*
Dimethylamine salt of 4-Chloro-2-methylphenoxyacetic acid solution, see 4-Chloro-2-methylphenoxyacetic acid, Dimethylamine salt solution.				CDM
Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid solution, see 2,4-Dichlorophenoxyacetic acid, Dimethylamine salt solution (70% or less).			DAD	DDA (DSX)
Dimethylamine solution (45% or less)	7	3	DMG	DMA/DMC/DMY
Dimethylamine solution (greater than 45% but not greater than 55%)	7	3	DMY	DMA/DMC/DMG
Dimethylamine solution (greater than 55% but not greater than 65%)	7	3	DMC	DMA/DMG/DMY
2,6-Dimethylaniline	9		DMM	DDL
Dimethylbenzene, see Xylenes		2		XLX/XLM/XLO/XLP
[ADD]				
Dimethylcyclicsiloxane hydrolyzate	34		DXZ.	
[REVISE]				
N,N-Dimethylcyclohexylamine	7		DXN.	
Dimethyl disulfide (alternately disulphide)	0	1, 2, 3	DSK.	
* * * *		*	*	*
Dimethylformamide	10	2	DMF.	
[ADD]				
Dimethyl furan	41		DFU.	
* * * *		*	*	*
Dimethyl naphthalene sulfonic (alternately sulphonic) acid, sodium salt solution.	34	2	DNS.	
* * * *		*	*	*
[REVISE]				
Dimethylpolysiloxane, see Polydimethylsiloxane			DMP.	
2,2-Dimethylpropane-1,3-diol (molten or solution)	20	3	DDI.	
Dimethyl succinate	34		DSE.	
Dinitrotoluene (molten)	42	3	DNM	DNL/DNU/DTT
Dinonyl phthalate, see Dialkyl (C7–C13) phthalates			DIF	DAH
Dioctyl phthalate, see Dialkyl (C7–C13) phthalates			DOP	DAH (DIE/DIO)
* * * *		*	*	*
Diphenyl ether/Biphenyl ether mixture, see Diphenyl/Diphenyl ether mixture				DDO
* * * *		*	*	*
Diphenylmethane diisocyanate	12	2	DPM.	
Diphenyl oxide, see Diphenyl ether				DPE
Diphenylol propane-Epichlorohydrin resins	0	1	DPR.	
Di-n-propylamine	7		DNA	DIA
* * * *		*	*	*
Dipropylene glycol butyl ether, see Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether.			DBG	PAG
* * * *		*	*	*
Dipropylene glycol methyl ether, see Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether.			DPY	PAG
* * * *		*	*	*
Distillates, straight run	33		DSR.	
Dithiocarbamate ester (C7–C35)	34		DHO.	
* * * *		*	*	*
Ditridecyl phthalate, see Dialkyl (C7–C13) phthalate			DTP	DAH
Diundecyl phthalate, see Dialkyl (C7–C13) phthalates			DUP	DAH
Dodecane (all isomers), see n-Alkanes (C10+) (all isomers)			DOF	ALV (ALJ/DOC)
tert-Dodecanethiol	20	2	DDL	LRM
Dodecene (all isomers)	30	3	DOZ	DDC/DOD
Dodecanol (all isomers), see Dodecyl alcohol (all isomers)		2	DDN	LAL
* * * *		*	*	*
Dodecyl alcohol (all isomers)	20	2	DDN	ASK/ASY/LAL

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Dodecylamine/Tetradecylamine mixture	7	2	DTA.	
Dodecylbenzene, see Alkyl (C9+) benzenes			DDB	AKB
[ADD]				
Dodecylbenzenesulfonic (alternately Dedecylbenzenesulphonic) acid	0	1, 2	DSA.	
* * * *	*	*	*	
[REVISE]				
Dodecyldimethylamine/Tetradecyldimethylamine mixture	7		DOT.	
Dodecyl diphenyl ether disulfonate (alternately disulphonate) solution	43		DTA.	
Dodecyl hydroxypropyl sulfide (alternately sulphide)	0	1	DOH.	
* * * *	*	*	*	
Drilling brines, including: Calcium bromide solution, Calcium chloride solution and Sodium chloride solution.	43	3		DRS/DRL
* * * *	*	*	*	
Epoxy resin	16		EPN.	
ETBE, see Ethyl tert-butyl ether				EBE
* * * *	*	*	*	
2-Ethoxyethanol, see Ethylene glycol monoalkyl ethers			EEO	EGC (EGE)
* * * *	*	*	*	
Ethoxylated alcohols, C11–C15, see alcohol polyethoxylates				AEA/AEB/AED/AET/APV/APW/APX
Ethoxylated long-chain (C16+) alkyloxyalkylamine	8		ELA.	
Ethoxylated tallow alkyl amine	7		TAY	TAG/TAR
Ethoxylated tallow alkyl amine, glycol mixture	7		TAG	TAR/TAY
Ethoxylated tallow amine (> 95%)	7	3	TAR	TAG/TAY
Ethoxy triglycol, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether			ETG	PAG (ETR/TGE)
* * * *	*	*	*	
Ethylamine solution (72% or less)	7	3	EAN	EAM/EAO
* * * *	*	*	*	
N-Ethylbutylamine	7		EBA.	
* * * *	*	*	*	
S-Ethyl dipropylthiocarbamate	34	3	ECB.	
Ethylene	30		ETL.	
[ADD]				
Ethyleneamine EA 1302	7	2	EMX.	
* * * *	*	*	*	
[REVISE]				
Ethylene glycol butyl ether, see Ethylene glycol monoalkyl ethers			EGM	EGC
Ethylene glycol tert-butyl ether, see Ethylene glycol monoalkyl ethers			EGG	EGC
* * * *	*	*	*	
Ethylene glycol ethyl ether, see Ethyl glycol monoalkyl ethers			EGE	EGC/EEO
Ethylene glycol ethyl ether acetate, see 2-Ethoxyethyl acetate			EGA	EEA
Ethylene glycol hexyl ether, see Ethylene glycol monoalkyl ethers			EGH	EGC
Ethylene glycol isobutyl ether, see Ethylene glycol monoalkyl ethers				EGC (EGG/EGM)
Ethylene glycol isopropyl ether, see Ethylene glycol monoalkyl ethers			EGI	EGC
Ethylene glycol methyl butyl ether, see Ethylene glycol monoalkyl ethers			EMB	EGC
Ethylene glycol methyl ether, see Ethylene glycol monoalkyl ethers			EME	EGC
* * * *	*	*	*	
Ethylene glycol monoalkyl ethers	40	2	EGC.	
Including:				
Ethylene glycol butyl ether	40			
Ethylene glycol tert-butyl ether	40			
Ethylene glycol ethyl ether	40			
Ethylene glycol hexyl ether	40			
Ethylene glycol isobutyl ether	40			
Ethylene glycol isopropyl ether	40			
Ethylene glycol methyl ether	40			
Ethylene glycol methyl butyl ether	40			
Ethylene glycol propyl ether	40			
* * * *	*	*	*	
Ethylene glycol propyl ether, see Ethylene glycol monoalkyl ethers			EGP	EGC/EGI/EGN

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Ethylene glycol n-propyl ether, see Ethylene glycol monoalkyl ethers			EGN	EGC (EGI/EGP)
* * * *		*	*	*
Ethylene oxide/Propylene oxide mixture with an Ethylene oxide content not more than 30% by mass.	16	3	EPM	EPF
* * * *		*	*	*
Ethyl ether, see Diethyl ether				EET
* * * *		*	*	*
2-Ethylhexaldehyde, see Octyl aldehydes			EHA	OAL (OLX)
2-Ethylhexanoic acid, see Octanoic acid (all isomers)			EHO	OAY (OAA)
2-Ethylhexanol, see Octanol			EHX	OCA (OTA)
* * * *		*	*	*
2-Ethyl-2-(hydroxymethyl) propane-1,3-diol (C8–C10) ester	34		EHD.	
* * * *		*	*	*
N-Ethylmethylallylamine	7		EML.	
[ADD]				
2-Ethyl-6-methyl-N-(1′-methyl-2-methoxyethyl)aniline	9		EEM.	
o-Ethyl phenol	21		EPL.	
* * * *		*	*	*
[REVISE]				
Ethyl toluene	32		ETE.	
Fatty acid methyl esters	34	3	FME.	
Fatty acids (C8–C10)	34	3	FDS.	
Fatty acids (C12+)	34	3	FDT	FAB/FAD/FAI/FDI
Fatty acids (saturated, C13+)	334		FAB	FAD
Fatty acids (saturated, C14+), see Fatty acids (saturated, C13+)			FAD	FAB
Fatty acids (C16+)	34	3	FDI.	
Fatty acids, essentially linear (C6–C18) 2-ethylhexyl ester	34	2, 3	FAE.	
* * * *		*	*	*
Fish oil, see Oil, edible: Fish		2		OFS (AFN)
* * * *		*	*	*
Fluorosilicic acid (20–30%) in water solution	1	3	FSK	FSJ/FSL/HFS
* * * *		*	*	*
Formaldehyde solutions (45% or less)	19	2, 3	FMR	FMG/FMS
* * * *		*	*	*
Formic acid (85% or less)	4	2	FMB	FMA
Formic acid (over 85%)	4	2, 3	FMD.	
Formic acid mixture (containing up to 18% Propionic acid and up to 25% Sodium formate).	4	2, 3	FMC	FMA/FMB
* * * *		*	*	*
[ADD]				
*Fuming sulfuric (*alternately *sulphuric) acid, see* Oleum		2		
* * * *		*	*	*
[REVISE]				
Gas oil, cracked, see Oil, misc.: Gas, cracked				GOC
* * * *		*	*	*
Gasolines:.				
Automotive (containing not more than 4.23 grams lead per gal.)	33		GAT.	
Aviation (containing not more than 4.86 grams lead per gal.)	33		GAV	AVA
Casinghead (*natural*)	33		GCS.	
Polymer	33		GPL.	
Straight run	33		GSR.	
Gasolines: Pyrolysis (containing Benzene), see Pyrolysis gasoline (containing Benzene).			GPY	PYG
Glucitol/Glycerol blend propoxylated (containing less than 10% amines)	40	3	GGA.	
* * * *		*	*	*
Glycerol, see Glycerine		2		GCR

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
* * * *		*	*	*
Glycerol propoxylated	40	3	GXP.	
Glycerol, propoxylated and ethoxylated	40	3	GXE.	
Glycerol/Sucrose blend propoxylated and ethoxylated	40	3	GSB.	
* * * *		*	*	*
Glycidyl ester of C10 trialkyl acetic acid	34		GLU	GLT
Glycidyl ester of tertiary carboxylic acid, see Glycidyl ester of C10 trialkyl acetic acid.			GLT	GLU
[ADD]				
Glycidyl ester of tridecyl acetic acid, see Glycidyl ester of C10 trialkyl acetic acid.			GLT	GLU
[REVISE]				
Glycidyl ester of Versatic acid, see Glycidyl ester of C10 trialkyl acetic acid			GLT	GLU
Glycine, sodium salt solution	7		GSS.	
Glycol diacetate, see Ethylene glycol diacetate				EGY
Glycol mixture, crude	20		GMC.	
Glycol triacetate, see Glyceryl triacetate				GCT
Glycolic acid solution (70% or less)	4	3	GLC.	
Glyoxal solution (40% or less)	19	3	GOS.	
Glyoxylic acid solution (50% or less)	4	3	GAC.	
* * * *		*	*	*
[ADD]				
Grape Seed Oil, see Oil, edible: Grape seed				
[REVISE]				
Groundnut oil, see Oil, edible: Groundnut				OGN (VEO)
[ADD]				
Hazelnut oil, see Oil, edible: Hazelnut				OHN (VEO)
[REVISE]				
Heptadecane (all isomers), see n-Alkanes (C10+) (all isomers)				ALV (ALJ)
Heptane (all isomers), see Alkanes (C6–C9)			HMX	ALK(HPI/HPT)
* * * *		*	*	*
Heptanol (all isomers)	20	3	HTX	HTN
Heptene (all isomers)	30	2, 3	HPX	THE
* * * *		*	*	*
Heptylbenzenes, see Alkyl (C5–C8) benzenes				AKD
Herbicide (C15–H22–NO2–Cl), see Metolachlor				MCO
Hexadecanol (Cetyl alcohol), see Alcohols (C13+)				ALY (ASY/AYL)
* * * *		*	*	*
Hexaethylene glycol, see Polyethylene glycol			HMG	PEG
Hexamethylene diisocyanate	12		HMS	HDI
Hexamethylene glycol	20		HMG	HXG
Hexamethylenediamine (molten)	7	3	HME	HMD/HMC
Hexamethylenediamine adipate (50% in water)	43		HAM	HAN
Hexamethylenediamine adipate solution	43		HAN	HAM
Hexamethylenediamine solution	7		HMC	HMD/HME
Hexamethyleneimine	7		HMI.	
Hexamethylenetetramine solutions	7		HTS	HMT
Hexane (all isomers), see Alkanes (C6–C9)		2	HXS	ALK (IHA/HXA)
1,6-Hexanediol, distillation overheads	4	2, 3	HDO.	
* * * *		*	*	*
Hexene (all isomers)	30	2, 3	HEX	HXE/HXT/HXU/HXV/MPN/MTN
* * * *		*	*	*
Hexylbenzenes, see Alkyl (C5–C8) benzenes				AKD
Hexylene glycol, see Hexamethylene glycol			HXG	HMG
Hog grease, see Lard				LRD
* * * *		*	*	*
Hydrofluorosilicic acid (25% or less), see Fluorosilicic acid (30% or less)				FSJ(FSK/FSL/HFS)
bis(Hydrogenated tallow alkyl)methyl amines	7		HTA.	
Hydrogen peroxide solutions (over 8% but not more than 60% by mass)	0	1, 3	HPN	HPO/HPS
Hydrogen peroxide solutions (over 60% but not more than 70% by mass)	0	1, 3	HPS	HPN/HPO
Hydrogenated starch hydrolysate	0	1, 3	HSH.	
2-Hydroxyethyl acrylate	14	2	HAI.	

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
N-(Hydroxyethyl)ethylenediamine triacetic acid, trisodium salt solution	43		HET.	
[ADD]				
N,N-bis(2-Hydroxyethyl) oleamide	10		HOO.	
* * * *		*	*	*
[REVISE]				
Hydroxyl terminated polybutadiene, see Polybutadiene, hydroxyl terminated				PHT
alpha-Hydro-omega-hydroxytetradeca(oxytetramethylene)	40		HTO	PYS/PYT
Illipe oil, see Oil, edible: Illipe				ILO (VEO)
Isoamyl alcohol	20	3	IAA	AAI/AAL/AAN/APM/ASE
Isobutyl alcohol	20	2, 3	IAL	BAN/BAS/BAT/BAY
Isobutyl formate	34	3	BFI	BFN/BFO
Isobutyl methacrylate	14	3	BMI	BMH/BMN
[ADD]				
Isodecaldehyde	19			
* * * *		*	*	*
[REVISE]				
Isopropanolamine	8	3	MPA	IPF/PAX/PLA
Isopropanolamine solution	8	3	PAI	MPA/PAY/PLA/PRG
Isopropyl acetate	34	3	IAC	PAT
Isopropyl alcohol	20	2, 3	IPA	IPB/PAL
Isopropylamine	7	3	IPP	IPO/IPQ/PRA
Isopropylamine (70% or less) solution	7	3	IPQ	IPO/IPP/PRA
Isopropylbenzene, see Alkyl (C3–C4) benzenes				AKC(CUM/PBY/PBZ)
Isopropylcyclohexane	31	3	IPX.	
Isopropyl ether	41	3	IPE	PRL/PRN
Jatropha oil, see Oil, misc.: Jatropha		3		JTO
Jet fuels:			JPO	JPT/JPF/JPV
JP–4	33		JPF.	
JP–5	33		JPV.	
JP–8	33		JPE.	
* * * *		*	*	*
[ADD]				
Ketone residue	18		KTR.	
* * * *		*	*	*
[REVISE]				
Kraft pulping liquors (free alkali content 3% or more) (Black, Green, or White).	5		KPL	KBL
Lactic acid	0	1, 2	LTA.	
Lactonitrile solution (80% or less)	37	3	LNI.	
* * * *		*	*	*
Latex, ammonia (1% or less)-inhibited	30	3	LTX.	
Latex: Carboxylated Styrene-Butadiene copolymer; Styrene-Butadiene rubber.	43	3	LCC	LCB/LSB
* * * *		*	*	*
Lauryl polyglucose, see Alkyl (C12–C14) polyglucoside solution (55% or less).				AGM/LAP
Lauryl polyglucose (50% or less), see Alkyl (C12–C14) polyglucoside solution (55% or less).			LAP	AMG
* * * *		*	*	*
Ligninsulfonic (alternately Ligninsulphonic) acid, magnesium salt solution	43	3	LGM	LGA/LNL/LSL
Ligninsulfonic (alternately *Ligninsulphonic*) *acid, sodium salt solution, see* Lignin liquor or Sodium lignosulfonate (alternately lignosulphonate) solution.			LGA	LNL or SLG
d-Limonene, see Dipentene				DPN
* * * *		*	*	*
Linseed oil, see Oil, misc.: Linseed				OLS
Liquefied Natural Gas, see Methane			LNG	MTH
Liquid chemical wastes	0	1, 3	LCW.	
[ADD]				
Liquid Streptomyces solubles	43			
* * * *		*	*	*
[REVISE]				

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Long-chain alkaryl sulfonic (alternately sulphonic) acid (C16–C60)	0	1	LCS.	
* * * *		*	*	*
Long-chain alkylphenate/Phenol sulfide (alternately sulphide) mixture	21		LPS.	
Long-chain alkyl (C13+) salicylic acid	4		LAS.	
[ADD]				
Long-chain polyetheramine in alkyl (C2–C4)benzenes	7		LCE.	
[REVISE]				
L-Lysine solution (60% or less)	43	3	LYS.	
* * * *		*	*	*
Magnesium long-chain alkaryl sulfonate (alternately sulphonate) (C11–C50)	34		MAS	MSE
Magnesium long-chain alkyl phenate sulfide (alternately sulphide) (C8–C20)	34		MPS.	
Magnesium long-chain alkyl salicylate (C11+)	34		MLS.	
* * * *		*	*	*
Magnesium nonyl phenol sulfide (alternately *sulphide*), *see* Magnesium long-chain alkyl phenate sulfide (alternately sulphide) (C8–C20).				MPS
Magnesium sulfonate (alternately *sulphonate*), *see* Magnesium long-chain alkaryl sulfonate (alternately sulphonate) (C11–C50).			MSE	MAS
* * * *		*	*	*
[ADD]				
Maleic anhydride/sodium allylsulphonate copolymer solution	11			PHN (CFO/CRL/CRO/CRS/CSO)
[REVISE]				
Maltitol solution	0	1, 3	MTI.	
Mango kernel oil, see Oil, edible: Mango kernel				MKO (VEO)
Mercaptobenzothiazol, sodium salt solution	5		SMB	MBT
2-Mercaptobenzothiazol (in liquid mixture)	5		BTM	SMD
Mesityl oxide	18	2	MSO.	
* * * *		*	*	*
Methacrylic acid—Alkoxypoly(alkylene oxide) methacrylate copolymer, sodium salt aqueous solution (45% or less).	20	3	MAQ.	
* * * *		*	*	*
Methoxy triglycol, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether			MTG	PAG (TGY)
* * * *		*	*	*
Methylamine solutions (42% or less)	7	3	MSZ.	
Methyl amyl acetate	34		MAC.	
Methyl amyl alcohol	20		MAA	MIC
* * * *		*	*	*
N-Methylaniline	9	3	MAN.	
alpha-Methylbenzyl alcohol with Acetophenone (15% or less)	20	3	MBA.	
* * * *		*	*	*
Methyl butanol, see the Amyl alcohols				AAI/AAL/AAN/APM/ASE/IAA
Methyl butenes, see Pentene (all isomers)				PTX (AMW/AMZ/PTE)
Methyl butenol	20		MBL.	
* * * *		*	*	*
[ADD]				
3-Methyl butyraldehyde	19		MBR.	
[REVISE]				
Methyl butyrate	34		MBU.	
* * * *		*	*	*
Methylcyclopentadienyl manganese tricarbonyl	0	1, 3	MCT	MCW
* * * *		*	*	*
Methyl diethanolamine	8		MDE	MAB
Methyl ethyl ketone	18	2	MEK.	
2-Methyl-6-ethyl aniline	9		MEN.	
Methyl formate	34		MFM.	
N-Methylglucamine solution (70% or less)	43	3	MGC.	
2-Methylglutaronitrile	37		MLN	MGN
2-Methylglutaronitrile with 2-Ethylsuccinonitrile (12% or less)	37	3	MGE	MLN

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Methyl heptyl ketone	18		MHK.	
2-Methyl-2-hydroxy-3-butyne	20		MHB	MBY
Methyl isoamyl ketone, see Methyl amyl ketone			MAJ	MAK
Methyl isobutyl carbinol, see Methyl amyl alcohol			MIC	MAA
Methyl isobutyl ketone	18		MIK	MBB/MBK
Methyl methacrylate	14		MMM.	
Methylene bridged isobutylenated phenols	21		MBP.	
Methylene chloride, see Dichloromethane				DCM
3-Methyl-3-methoxybutanol	20		MXB.	
* * * *		*	*	*
Methyl naphthalene (molten)	32	3	MNA.	
Methylolurea	19		MUS.	
2-Methyl pentane, see Hexane (all isomers)				HXS (ALK/HXA/IHA/NHX)
* * * *		*	*	*
2-Methyl-1-pentene, see Hexene (all isomers)			MPN	HEX (HXE/HXT/HXU/HXV/MTN)
4-Methyl-1-pentene, see Hexene (all isomers)			MTN	HEX (HXE/HXT/HXU/HXV/MPN)
Methyl tert-pentyl ether, see tert-Amyl methyl ether				AYE
* * * *		*	*	*
2-Methyl-5-ethylpyridine	9		MEP.	
Methylpyridine, see the Methylpyridines			MPQ	MPE/MPF/MPR
2-Methylpyridine	9	3	MPR	MPE/MPF/MPQ
3-Methylpyridine	9	3	MPE	MPF/MPQ/MPR
4-Methylpyridine	9	3	MPF	MPE/MPQ/MPR
* * * *		*	*	*
Microsilica slurry	43		MOS.	
* * * *		*	*	*
Molybdenum polysulfide (alternately polysulphide) long-chain alkyl dithiocarbamide complex.	0	1, 3	MOP.	
* * * *		*	*	*
Monoethylamine, see Ethylamine				EAM (EAN/EAO)
Monoisopropanolamine, see Isopropanolamine				MPA (PLA/PLX)
Monoethylamine, see Ethylamine				EAM (EAN/EAO)
* * * *		*	*	*
MTBE, see Methyl tert-butyl ether				MBE
* * * *		*	*	*
Naphthalene (molten)	32	3	NTM.	
[ADD]				
Naphthalene still residue	32	2	NSR.	
[REVISE]				
Naphthalene sulfonic (alternately sulphonic) acid, sodium salt solution	34		NSB	NSA
Naphthalene sulfonic (alternately sulphonic) acid-Formaldehyde copolymer, sodium salt solution.	0	1	NFS.	
Naphthenic acid	4		NTI.	
* * * *		*	*	*
Nitrating acid (mixture of Sulfuric (alternately Sulphuric) and Nitric acids)	0	1	NIA.	
Nitric acid (70% and over)	3	2, 3	NCE	NAC/NCD
* * * *		*	*	*
[ADD]				
Nitric Acid, fuming, see Nitric acid (70% and over)		1, 2, 3		NCE
Nitric Acid, red fuming, see Nitric acid (70% and over)		1, 2, 3		NCE
[REVISE]				
Nitrilotriacetic acid, trisodium salt solution	34	3	NCA.	
* * * *		*	*	*
o-Nitrochlorobenzene, see o-Chloronitrobenzene				CNO (CNP)
* * * *		*	*	*
Nitroethane (80%)/Nitropropane (20%)	42	2, 3	NNL	NNM/NNO/NPM/NPN/NPP/NTE

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
* * * *		*	*	*
Nitrophenol (mixed isomers)	42		NPX	NIP/NPH
o-Nitrophenol (molten)	0	1, 2	NTP	NIP/NPH/NPX
Nitropropane (60%)/Nitroethane (40%) mixture	42		NNM	NNL/NNO/NPM/NPN/NPP/NTE
1-or 2-Nitropropane	42		NPM	NPN/NPP
o- or p-Nitrotoluenes	42	3	NIT	NIE/NTR/NTT
Nonane (all isomers), see Alkanes (C6–C9)			NAX	ALK (NAN)
* * * *		*	*	*
Non-edible industrial grade palm oil, see Oil, misc.: Palm, non-edible industrial grade.				OPB
Nonene (all isomers)	30	2	NOO	NNE/NON/OAM/OFX/OFY
Nonyl acetate	34		NAE.	
Nonyl alcohol (all isomers)	20	2	NNS	ALR/DBC/NNI/NNN
Nonylbenzene, see Alkyl (C9+) benzenes				AKB
* * * *		*	*	*
Nonyl phenol	21		NNP.	
Nonyl phenol poly(4+)ethoxylate, see Alkyl (C7–C11) phenol poly(4–12) ethoxylate.			NPE	APN
Nonyl phenol sulfide (alternately *sulphide*) *(90% or less) solution, see* Alkyl (C8–C40) phenol sulfide (alternately sulphide).				AKS (NPS)
Nonylphenol (48–62%)/Phenol (42–48%)/Dinonylphenol (1–10%) mixture	21		NYL.	
[ADD]				
Noxious Liquid Substance, NF, (1) n.o.s. (''trade name'' contains ''principal components'') Cat X.	0	1		
Noxious Liquid Substance, F, (2) n.o.s. (''trade name'' contains ''principal components'') Cat X.	0	1		
Noxious Liquid Substance, NF, (3) n.o.s. (''trade name'' contains ''principal components'') Cat X.	0	1		
Noxious Liquid Substance, F, (4) n.o.s. (''trade name'' contains ''principal components'') Cat X.	0	1		
Noxious Liquid Substance, NF, (5) n.o.s. (''trade name'' contains ''principal components'') Cat Y.	0	1		
Noxious Liquid Substance, F, (6) n.o.s. (''trade name'' contains ''principal components'') Cat Y.	0	1		
Noxious Liquid Substance, NF, (7) n.o.s. (''trade name'' contains ''principal components'') Cat Y.	0	1		
Noxious Liquid Substance, F, (8) n.o.s. (''trade name'' contains ''principal components'') Cat Y.	0	1		
Noxious Liquid Substance, NF, (9) n.o.s. (''trade name'' contains ''principal components'') Cat Z.	0	1		
Noxious Liquid Substance, F, (10) n.o.s. (''trade name'' contains ''principal components'') Cat Z.	0	1		
Noxious Liquid Substance, (11) n.o.s. (''trade name'' contains ''principal components'') Cat Z.	0	1		
Non-noxious Liquid Substance, (12) n.o.s. (''trade name'' contains ''principal components'') Cat OS.	0	1	NOL.	
Nutmeg butter oil, see Oil, edible: Nutmeg butter				ONB (VEO)
[REVISE]				
1-Octadecene, see the olefin or alpha-olefin entries				OAM/OFZ
1-Octadecanol, see Stearyl alcohol				SYL (ALY/ASY)
Octadecenoamide solution	10		ODD.	
Octadecenol (oleyl alcohol), see Alcohols (C13+)				ALY (AYL/ASY/OYL)
Octamethylcyclotetrasiloxane	34	3	OSA.	
Octane (all isomers), see Alkanes (C6–C9)			OAX	ALK (IOO/OAN)
Octanoic acid (all isomers)	4		OAY	OAA/EHO
* * * *		*	*	*
Octyl alcohol, see Octanol (all isomers)		2		OCX (EHX/IOA/OTA)
* * * *		*	*	*
Octylbenzenes, see Alkyl (C5–C8) benzenes				AKD
* * * *		*	*	*
n-Octyl mercaptan	0		OME.	
Octyl nitrates (all isomers), see Alkyl (C7–C9) nitrates		2	ONE	AKN

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
* * * *		*	*	*
Octyl phthalate, see Dioctyl phthalate				DAH (DIE/DIO/DLK/DOP)
Oil, edible:.				
Beechnut	34		OBN	VEO
Castor	34		OCA	VEO
Cocoa butter	34		OCB	VEO
Coconut	34		OCC	VEO
Cod liver	34		OCL	AFN
Corn	34		OCO	VEO
Cotton seed	34		OCS	VEO
Fish	34	2	OFS	AFN
Grape seed	34			
Groundnut	34		OGN	VEO
Hazelnut	34		OHN	VEO
Illipe	34		ILO	VEO
Lard	34		OLD	AFN
Maize, see Oil, edible: Corn				OCO (VEO)
Mango kernel	34	3	MKO.	
Nutmeg butter	34		ONB	VEO
Olive	34		OOL	VEO
Palm	34	2, 3	OPM	VEO
Palm kernel	34		OPO	VEO
Palm kernel olein	34		PKO	VEO
Palm kernel stearin	34		PKS	VEO
Palm mid fraction	34		PFM	VEO
Palm olein	34		PON	VEO
Palm stearin	34		PMS	VEO
Peanut	34		OPN	VEO
Poppy	34		OPY	VEO
Poppy seed	34		OPS	VEO
Raisin seed	34		ORA	VEO
Rapeseed	34		ORP	VEO
Rapeseed (low erucic acid containing less than 4% free fatty acids)	34	3	ORO	ORP/VEO
Rice bran	34		ORB	VEO
Safflower	34		OSF	VEO
Salad	34		OSL	VEO
Sesame	34		OSS	VEO
Shea butter	34		OSH	VEO
Soyabean	34	2	OSB	VEO
Sunflower, see Oil, edible: Sunflower seed				OSN (VEO)
Sunflower seed	34		OSN	VEO
Tucum	34		OTC	VEO
Vegetable	34		OVG	VEO
Walnut	34		OWN	VEO
* * * *		*	*	*
Oil, misc.:.				
Acid mixture from soyabean, corn (maize) and sunflower oil refining	34		AOM.	
Aliphatic	33		OML.	
Animal	34		OMA	AFN
Aromatic	33		OMR.	
Camelina	34		OCI.	
Cashew nut shell (untreated)	34		OCN.	
Clarified	33		OCF.	
Coal	33		OMC.	
Coconut fatty acid	34	2	CFA.	
Coconut, fatty acid methyl ester	34		OCM.	
Cotton seed oil, fatty acid	34		CFY.	
Crude	33		OFA.	
Diesel	33		ODS.	
Disulfide (alternately Disulphide)	0	1	ODI.	
Gas, cracked	33		GOC.	
Gas, high pour	33		OGP.	
Gas, low pour	33		OGL.	
Gas, low sulfur (alternately sulphur)	33		OGS.	
Heartcut distillate	33		OHD.	
Jatropha	34	3	JTO.	
Lanolin	34		OLL	AFN
Linseed	33		OLS.	
Lubricating	33	2	OLB.	
Mineral	33		OMN.	

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Mineral seal	33		OMS.	
Motor	33		OMT.	
Neatsfoot	33		ONF	AFN
Oiticica	34		OOI.	
Palm acid	34		PLM.	
Palm fatty acid distillate	34		PFD.	
Palm oil, fatty acid methyl ester	34		OPE.	
Palm kernel acid	34		OPK.	
Palm kernel fatty acid distillate	34		PNG.	
Palm, non-edible industrial grade	34		OPB.	
Penetrating	33		OPT.	
Perilla	34		OPR.	
Pilchard	34		OPL	AFN
Pine	33		OPI	PNL
Rapeseed fatty acid methyl esters	34	3	ORP.	
Residual	33		ORL.	
Resin, distilled	30	3	ORR.	
Road	33		ORD.	
Rosin	33		ORN.	
Seal	34		OSE.	
Soapstock	34		OIS.	
Soyabean (epoxidized)	34			OSC/EVO
Soyabean fatty acid methyl ester	34			OST
Spindle	33		OSD.	
Tall	34		OTL	OTI/OTJ
Tall, crude	34	2	OTI	OTJ/OTL
Tall, distilled	34	2	OTJ	OTI/OTL
Tall, fatty acid	34	2	OTT.	
Tall fatty acid (resin acids less than 20%)	34	2	OTK	OTT
Tall pitch	34		OTP.	
Transformer	33		OTF.	
Tung	34		OTG.	
Turbine	33		OTB.	
Vacuum gas oil	33		OVC.	
Oleamide solution, see Octadecenoamide solution				ODD
* * * *		*	*	*
Olefin-Alkyl ester copolymer (molecular weight 2000+)	30		OCP.	
Olefin mixture (C7–C9) C8 rich, stabilized	30	3	OFC	OFW/OFY/OFX
Olefin mixtures (C5–C7)	30	3	OFX	OAM/OFC/OFW/OFX/OFZ
Olefin mixtures (C5–C15)	30	3	OFY	OAM/OFC/OFW/OFX/OFZ
Olefins (C13+, all isomers)	30		OFZ	OAM/OFW
* * * *		*	*	*
Oleic acid	4		OLA.	
* * * *		*	*	*
Oleyl alcohol, see Alcohols (C13+)			OYL	ALY (ASY)
* * * *		*	*	*
Olive oil, see Oil, edible: Olive				OOL (VEO)
Orange juice (concentrated)	0	1, 3	OJC	OJN
Orange juice (not concentrated)	0	1, 3	OJN	OJC
* * * *		*	*	*
ORIMULSION, see Asphalt emulsion				ASQ
* * * *		*	*	*
Oxygenated aliphatic hydrocarbon mixture	0	1, 3	OAH.	
Palm acid oil, see Oil, misc.: Palm acid		3		PLM
Palm fatty acid distillate, see Oil, misc.: Palm fatty acid distillate		3		PFD
Palm kernel acid oil, see Oil, misc.: Palm kernel acid				PNO
Palm kernel acid oil, methyl ester, see Oil, misc.: Palm kernel acid, methyl ester.				PNF
Palm kernel oil, see Oil, edible: Palm kernel				OPO (VEO)
Palm kernel oil fatty acid distillate, see Oil, misc.: Palm kernel fatty acid distillate.				PNG
Palm kernel olein, see Oil, edible: Palm kernel olein		3		PKO (VEO)
Palm kernel stearin, see Oil, edible: Palm kernel stearin		3		PKS (VEO)
Palm mid fraction, see Oil, edible: Palm mid fraction		3		PFM (VEO)
Palm oil, see Oil, edible: Palm		2, 3	OPM	VEO/OPE

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Palm oil fatty acid methyl ester, see Oil, misc.: Palm fatty acid methyl ester		3		OPE
Palm olein, see Oil, edible: Palm olein		3		PON (VEO)
Palm stearin, see Oil, edible: Palm stearin				PMS (VEO)
Parachlorobenzotrifluoride	32		PBF.	
Paraffin wax, see Waxes: Paraffin		3		WPF
n-Paraffins (C10–C20), see n-Alkanes (C10+) all isomers			PFN	ALJ
* * * *		*	*	*
[ADD]				
Peanut, see Oil, edible: Peanut				OPN (VEO)
* * * *		*	*	*
Pentacosa (oxypropane-2,3-diyl)s	20		POY.	
[REVISE]				
Pentadecanol, see Alcohols (C13+)	.		PDC	ALY
* * * *		*	*	*
1,3-Pentadiene (greater than 50%), Cyclopentene and isomers, mixtures	30	3	PMM.	
Pentaethylene glycol, see Polyethylene glycols				PEG
Pentaethylene glycol methyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.				PAG
* * * *		*	*	*
n-Pentanoic acid (64%)/2-Methyl butyric acid (36%) mixture	4		POJ	POC
Pentasodium salt of Diethylenetriaminepentaacetic acid solution, see Diethylenetriaminepentaacetic acid, pentasodium salt solution.				DYS
* * * *		*	*	*
[ADD]				
Pentyl aldehyde	19		PYL.	
* * * *		*	*	*
[REVISE]				
Phosphoric acid	1	2	PAC.	
* * * *		*	*	*
Phosphosulfurized (alternately Phosphosulphurized) bicycle terpene	0	1	PBT.	
* * * *		*	*	*
[ADD]				
PIB, see Poly(4+)isobutylene (molecular weight > 224).				
* * * *		*	*	*
[REVISE]				
Pine oil, see Oil, misc.: Pine			PNL	OPI
Piperazine (70% or less)	7	3	PIZ	PPB/PPZ
Piperazine (crude)	7		PZC	PPZ/PIZ
Piperazine, 68% solution	7			
* * * *		*	*	*
Polyalkyl (C18–C22) acrylate in Xylene	14		PIX.	
Polyalkylalkenaminesuccinimide, molybdenum oxysulfide (alternately oxysulphide).	0	3	PSO.	
Polyalkylene glycols/Polyalkylene glycol monoalkyl ethers mixtures	40		PPX.	
Polyalkylene glycol butyl ether, see Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether.			PGB	PAG
Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether	40	2	PAG.	
Including:				
Diethylene glycol butyl ether	40			
Diethylene glycol ethyl ether	40			
Diethylene glycol n-hexyl ether	40			
Diethylene glycol methyl ether	40			
Diethylene glycol propyl ether	40			
Dipropylene glycol butyl ether	40			
Dipropylene glycol methyl ether	40			
Polyalkylene glycol butyl ether	40			
Polyethylene glycol monoalkyl ether	40			
Polypropylene glycol methyl ether	40			
Tetraethylene glycol methyl ether	40			
Triethylene glycol butyl ether	40			
Triethylene glycol ethyl ether	40			

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Triethylene glycol methyl ether	40			
Tripropylene glycol methyl ether	40			
Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether acetate	34		PAF.	
Including:				
Diethylene glycol butyl ether acetate	34			
Diethylene glycol ethyl ether acetate	34			
Diethylene glycol methyl ether acetate	34			
Polyalkylene oxide polyol	20		PAO.	
* * * *		*	*	*
Polyaluminum (alternately Polyaluminium) chloride solution	1		PLS.	
* * * *		*	*	*
Polyalkyl(C10–C18) methacrylate/Ethylene-propylene copolymer mixture	14		PEM.	
* * * *		*	*	*
Polycarboxylic ester (C9+), see Ditridecyl adipate				DTY
Poly(2+)cyclic aromatics	32		PCA.	
Polydimethylsiloxane, see Dimethylpolysiloxane				DMP
* * * *		*	*	*
Polyether (molecular weight 1350+)	41		PYR.	
* * * *		*	*	*
Poly(ethylene glycol) methylbutenyl ether (molecular weight >1000)	40		PBN.	
Polyethylene glycol monoalkyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.			PEE	PAG
* * * *		*	*	*
Polyethylene polyamines (more than 50% C5–C20 Paraffin oil)	7	2, 3	PEY	PEB
Polyferric sulfate (alternately sulphate) solution	34		PSS.	
* * * *		*	*	*
Poly(iminoethylene)-graft-N-poly(ethyleneoxy) solution (90% or less)	7	3	PIG	PIM
Polyisobutenamine in aliphatic (C10–C14) solvent	7	2	PIB	PIA
[ADD]				
(Polyisobutene) amino products in aliphatic hydrocarbons	7	3		
* * * *		*	*	*
[REVISE]				
Poly(4+)isobutylene (molecular weight > 224)	30	3	PIL.	
[ADD]				
Polyisobutylene (molecular weight ≤ 224)	30	3	PIL.	
[REVISE]				
* * * *		*	*	*
Polymethylene polyphenyl isocyanate	12	2	PPI.	
[ADD]				
Polymethylsiloxane	34		PMX.	
[REVISE]				
Polyolefin (molecular weight 300+)	33		PMW	PLF
Polyolefin amide alkeneamine (C17+)	33		POH	POD
Polyolefin amide alkeneamine (C28+), see Polyolefin amide alkenamine (C17+).			POD	POH
Polyolefin amide alkeneamine borate (C28–C250)	33		PAB.	
* * * *		*	*	*
Polyolefin amide alkeneamine/Molybdenum oxysulfide (alternately oxysulphide) mixture.	7		PMO.	
* * * *		*	*	*
[ADD]				
Polyolefin amine (C17+)	7		POG.	
[REVISE]				
* * * *		*	*	*
Polyolefinamine in aromatic solvent	32	3	POR	POF
Polyolefin aminoester salts (molecular weight 2000+)	34		PAE.	
* * * *		*	*	*
Polyolefin phosphorosulfide (alternately phosphorosulphide), barium derivative (C28–C250).	34		PPS.	

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Poly (oxyalkylene) alkenyl ether (molecular weight > 1000)	41	3	PXY.	
* * * *		*	*	*
Polyoxypropylenediamine (molecular weight 2000)	7		PYD.	
Poly(5+) propylene	30		PLQ	PLP
Polypropylene glycol	40	2	PGC.	
Polypropylene glycol methyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.			PGM	PAG
* * * *		*	*	*
Polysiloxane/White spirit, low (15–20%) aromatic	34		PWS.	
[ADD]				
Poly(tetramethylene ether) glycols (molecular weight 950–1050), see alpha-hydro-omega-Hydroxytetradeca(oxytetramethylene).			PYU	HTO
Polytetramethylene ether glycol	40		PYT	HTO/PYU/PYS
Poppy seed, see Oil, edible: Poppy seed				OPS (VEO)
Poppy, see Oil, edible: Poppy				OPY (VEO)
* * * *		*	*	*
[REVISE]				
Potassium hydroxide solution, see Caustic potash solution		2		CPS/PTH
* * * *		*	*	*
Potassium polysulfide (alternately polysulphide)/Potassium thiosulfide (alternately thiosulphide) solution (41% or less).	0	1	PYP	PSF/PTF
* * * *		*	*	*
Potassium thiosulfate (alternately thiosulphate) (50% or less)	43		PTF.	
* * * *		*	*	*
iso-Propanolamine, see Isopropanolamine				MPA (PAX/PLA)
* * * *		*	*	*
2-Propene-1-aminium, N,N-dimethyl–N–2-propenyl-, chloride, homopolymer solution.	0	1, 3	PLN.	
Propionaldehyde	19		PAD.	
beta-Propiolactone	18	3	PLT.	
* * * *		*	*	*
n-Propoxypropanol, see Propylene glycol monoalkyl ether			PXP	PGE
* * * *		*	*	*
[ADD]				
n-Propyl chloride	36		PRC.	
Propyl ether	41			IPE/PRE
[REVISE]				
n-Propylamine	7		PRA	IPO/IPP/IPQ
iso-Propylamine solution, see Isopropylamine (70% or less) solution				IPQ (IPO/IPP/PRA)
Propylbenzenes (all isomers), see Alkyl (C3–C4) benzenes			PBY	AKC (CUM/PBZ)
iso-Propyl cyclohexane, see Isopropylcyclohexane				IPX
* * * *		*	*	*
Propylene glycol n-butyl ether, see Propylene glycol monoalkyl ether			PGD	PGE
Propylene glycol ethyl ether, see Propylene glycol monoalkyl ether			PGY	PGE
Propylene glycol methyl ether, see Propylene glycol monoalkyl ether		2	PME	PGE
Propylene glycol methyl ether acetate	34	2	PGN.	
Propylene glycol monoalkyl ether	40		PGE.	
Including:				
n-Propoxypropanol	40			
Propylene glycol n-butyl ether	40			
Propylene glycol ethyl ether	40			
Propylene glycol methyl ether	40			
Propylene glycol propyl ether	40			
Propylene glycol phenyl ether	40		PGP.	
Propylene glycol propyl ether, see Propylene glycol monoalkyl ether				PGE
* * * *		*	*	*
Propylene trimer	30		PTR.	
[ADD]				
Propylene/Propane/MAPP gas mixture	30	2	PPM.	
[REVISE]				

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Pseudocumene, see Trimethylbenzene (all isomers)				TMB/TMD/TME/TRE
* * * *		*	*	*
Pyridine bases, see Paraldehyde-Ammonia reaction product				PRB
Pyrolysis gasoline (containing Benzene)	32	3	PYG	GPY
Rapeseed oil (low erucic acid containing less than 4% free fatty acids), see Oil, edible: Rapeseed (low erucic acid containing less than 4% free fatty acids).		3		ORO (VEO)
Rapeseed oil fatty acid methyl esters, see Oil, misc.: Rapeseed fatty acid methyl esters.		3		RSO
Rapeseed oil, see Oil, edible: Rapeseed				ORO (VEO)
* * * *		*	*	*
Resin oil, distilled, see Oil, misc.: Resin, distilled		3		ORR (ORS)
Rice bran oil, see Oil, edible: Rice bran				ORB
[ADD]				
Rosin soap (disproportionated) solution	43		RSP.	
[REVISE]				
Rosin, see Oil, misc.: Rosin				ORN
Rum, see Alcoholic beverages, n.o.s.				ABV
Safflower oil, see Oil, edible: Safflower				OSF (VEO)
* * * *		*	*	*
Shea butter, see Oil, edible: Shea butter		3		OSH (VEO)
* * * *		*	*	*
Sodium acetate solutions	34		SAN.	
Sodium acetate, Glycol, Water mixture (containing 1% or less Sodium hydroxide) (if non-flammable or non-combustible).	5	2	SAY	SAO/SAP/SAQ/SAY
Sodium acetate, Glycol, Water mixture (containing Sodium hydroxide)	5		SAQ	SAO/SAP/SAW/SAY
Sodium acetate, Glycol, Water mixture (not containing Sodium hydroxide)	34	2	SAW	SAO/SAP/SAQ/SAY
Sodium alkyl (C14–C17) sulfonates (alternately sulphonates) (60–65% solution).	34		SSU	AKA/AKE
* * * *		*	*	*
Sodium benzoate	34		SBN	SBM
Sodium bicarbonate solution (less than 10%)	34	3	SBC.	
* * * *		*	*	*
Sodium bromide solution (less than 50%)	43	3	SBL	SBR
* * * *		*	*	*
[ADD]				
Sodium dimethyl naphthalene sulfonate solution, see Dimethyl naphthalene sulfonic (alternately sulphonic) acid, sodium salt solution.				DNS
[REVISE]				
Sodium hydrogen sulfide (alternately sulphide) (6% or less)/Sodium carbonate (3% or less) solution.	0	1, 2, 3	SSS	SCE/SHW
Sodium hydrogen sulfite (alternately sulphite) solution (45% or less)	43		SHY	SHX
Sodium hydrosulfide (alternately hydrosulphide)/Ammonium sulfide (alternately sulphide) solution.	5	2	SSA	ASF/ASS
Sodium hydrosulfide (alternately hydrosulphide) solution (45% or less)	5	2	SHR.	
Sodium hydroxide solution, see Caustic soda solution		2		CSS (SHD)
* * * *		*	*	*
Sodium lignosulfonate (alternately lignosulphonate) solution	43		SLG	LNL
Sodium long-chain alkyl salicylate (C13+)	34		SLS.	
Sodium-2-mercaptobenzothiazol solution, see Mercaptobenzothiazol, sodium salt solution.				SMB
Sodium methoxide (25% in methanol)	0	1	SMO.	
Sodium methylate 21–30% in methanol	0	1, 2, 3	SMT	SMS
Sodium naphthalene sulfonate (alternately *sulphonate*) *solution, see* Naphthalene sulfonic (alternately sulphonic) acid (40% or less), sodium salt solution (40% or less).			SNS	NSA (NSB)
Sodium naphthenate solution, see Naphthenic acid, sodium salt solution				NTS
* * * *		*	*	*
[ADD]				
Sodium N-methyl dithio carbamate solution, see Metam sodium solution			MSS	SMD
[REVISE]				
Sodium petroleum sulfonate (alternately sulphonate)	34		SPS.	

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Sodium poly(4+)acrylate solution	43	2	SOP	SOO
Sodium polyacrylate solution	43	2	SOO	SOP
Sodium salt of Ferric hydroxyethylethylenediaminetriacetic acid solution, see Ferric hydroxyethylethylenediaminetriacetic acid, trisodium salt solution.			STA	FHX
* * * *		*	*	*
Sodium sulfate (alternately sulphate) solution	34	3	SST	SSO
Sodium sulfide (alternately sulphide) solution (15% or less)	43		SDR	SDS
Sodium sulfide (alternately sulphide)/Hydrosulfide (alternately Hydrosulphide) solution (H_2S 15 ppm or less).	0	1, 2	SSH	SDS/SHR/SSI/SSJ
Sodium sulfide (alternately sulphide)/Hydrosulfide (alternately Hydrosulphide) solution (H_2S greater than 15 ppm but less than 200 ppm).	0	1, 2	SSI	SDS/SHR/SSH/SSJ
Sodium sulfide (alternately sulphide)/Hydrosulfide (alternately Hydrosulphide) solution (H_2S greater than 200 ppm).	0	1, 2	SSJ	SDS/SHR/SSH/SSI
Sodium sulfite (alternately sulphite) solution (25% or less)	43		SUP	SSF/SUS
[ADD]				
Sodium tartrates/Sodium succinates solution	43		STM.	
* * * *		*	*	*
[REVISE]				
Soyabean fatty acid methyl ester, see Oil, misc.: Soyabean fatty acid methyl ester.				OST
[ADD]				
Soyabean oil (epoxidized)	34			OSC/EVO
[REVISE]				
Soyabean oil, see Oil, edible: Soyabean		2		OSB (VEO)
Stearic acid, see Fatty acids (saturated, C13+)			SRA	FAD (FAB/FAE/FDI/FDT)
* * * *		*	*	*
Stoddard solvent, see Naphtha: Stoddard solvent				NSS
* * * *		*	*	*
Sulfohydrocarbon (alternately Sulphohydrocarbon) (C3–C88)	33		SFO.	
Sulfohydrocarbon (alternately Sulphohydrocarbon), long-chain (C18+) alkylamine mixture.	7		SFX.	
Sulfolane (alternately Sulpholane)	39		SFL.	
Sulfonated (alternately Sulphonated) polyacrylate solutions	43	2	SPA.	
Sulfur (alternately Sulphur) (molten)	0	1, 2	SXX.	
Sulfur (alternately Sulphur) dioxide	0	1	SFD.	
Sulfuric (alternately Sulphuric) acid	2	2	SFA	SAC
Sulfuric (alternately Sulphuric) acid, spent	2	2	SAC	SFA
Sulfurized (alternately Sulphurized) fat (C14–C20)	33		SFT.	
Sulfurized (alternately Sulphurized) polyolefinamide	10		SPY.	
Sulfurized (alternately Sulphurized) polyolefinamide alkene (C28–C250) amine.	33		SPO.	
Sunflower seed oil, see Oil, edible: Sunflower seed	34			OSN (VEO)
[ADD]				
Sym-trichlorobenzene, see 1,2,4-Trichlorobenzene.				
[REVISE]				
Tall oil, see Oil, misc.: Tall				OTL (OTI/OTJ)
Tall oil, crude, see Oil, misc.: Tall, crude		2, 3		OTI (OTJ/OTL)
Tall oil, distilled, see Oil, misc.: Tall, distilled		3		OTJ (OTI/OTL)
Tall oil, fatty acid, see Oil, misc.: Tall fatty acid		2		OTT
Tall oil fatty acid (resin acids less than 20%), see Oil, misc.: Tall oil fatty acid (resin less than 20%).		2		OTK (OTT)
[ADD]				
Tall oil fatty acid, barium salt	0	1, 2	TOB.	
[REVISE]				
Tall oil pitch, see Oil, misc.: Tall pitch		3		OTP (OTI/OTJ/OTL)
Tall oil soap (crude)	34		TOR	TOS
[ADD]				
Tall oil soap (disproportionated) solution	43		TOS.	
[REVISE]				
Tallow	34	2	TLO.	
Tallow alcohol, see Alcohols (C13+)		2	TFA	ALY (ASY)
* * * *		*	*	*
Tallow fatty alcohol, see Alcohols (C13+)		2	TFA	ALY
TAME, see tert-Amyl methyl ether				AYE

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Tertiary butylphenols	21		BLT	BTP
[ADD]				
Tetrachloroethane	36		TEC.	
[REVISE]				
1,1,2,2-Tetrachloroethane, see Tetrachloroethane	36		TEC	TEE
Tetradecanol, see Alcohols (C13+)			TTN	ALY
Tetradecene, see olefins or alpha-olefin entries				OAM/OFY/OFW/OFZ/TDD
Tetradecylbenzene, see Alkyl (C9+) benzenes			TDB	AKB
Tetraethyl silicate monomer/oligomer (20% in ethanol)	0	1, 3	TSM.	
* * * *		*	*	*
Tetraethylene glycol methyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.				PAG
Tetraethylenepentamine	7	2	TTP.	
Tetrahydrofuran	41		THF.	
* * * *		*	*	*
[ADD]				
1,2,3,5-Tetramethylbenzene, see Tetramethylbenzene (all isomers)			TTB	TTC
[REVISE]				
Tetrapropylbenzene, see Alkyl(C9+)benzenes				AKB
Tetrasodium salt of ethylenediaminetetraacetic acid solution, see Ethylenediaminetetraacetic acid, tetrasodium salt solution.				EDS
* * * *		*	*	*
Toluene	32	2	TOL.	
Toluene diisocyanate	12	2		TDI
Toluenediamine	9		TDA.	
o-Toluidine	9	2	TLI	TOD/TOI
Triarylphosphate, see Triisopropylated phenyl phosphates			TRA	TPL
* * * *		*	*	*
1,2,3-Trichlorobenzene (molten)	36	3	TBZ	TCB
* * * *		*	*	*
[ADD]				
1,2,3-Trichlorobenzol, see 1,2,3-Trichlorobenzene (molten)			TBZ	TCB
* * * *		*	*	*
[REVISE]				
Trichloroethylene	36	2	TCL.	
1,1,2-Trichloro-1,2,2-trifluoroethane	36		TTF.	
Tricresyl phosphate (containing 1% or more ortho-isomer)	34	3	TCO	TCP/TCQ
Tricresyl phosphate (containing less than 1% ortho-isomer)	34	3	TCP	TCO/TCQ
1,2,3-Trichloropropane	36	2	TCN.	
Tridecane (all isomers), see n-Alkanes (C10+) (all isomers)			TRD	ALV (ALJ)
* * * *		*	*	*
Tridecanol, see Alcohols (C13+)			TDN	ALY (ASK/ASY/AYK/LAL)
Tridecene, see Olefins (C13+ all isomers)			TRD	OAM/OFY/OFW/OFZ/TDC
* * * *		*	*	*
Tridecylbenzene, see Alkyl (C9+) benzenes			TRB	AKB
* * * *		*	*	*
Triethylene glycol butyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.			TBE	PAG
* * * *		*	*	*
[ADD]				
Triethylene glycol dibenzoate	34		TGB.	
[REVISE]				
Triethylene glycol ether mixture	40		TYM.	
Triethylene glycol ethyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.			TGE	PAG
Triethylene glycol methyl ether, see Poly(2–8)alkylene glycol monoalkyl (C1–C6) ether.			TGY	PAG
* * * *		*	*	*
Triisopropanolamine salt of 2,4-Dichlorophenoxyacetic acid solution, see 2,4-Dichlorophenoxyacetic acid, Triisopropanolamine salt solution.				DTI

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
* * * *		*	*	*
Trimethyl nonanol, see Dodecyl alcohol				DDN (ASK/ASY/LAL)
Trimethylol propane polyethoxylated	20		TPR.	
[ADD]				
Trimethyl phosphite	34	2	TPP.	
Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4-)	12		THI.	
Trimethylhexamethylenediamine (2,2,4- and 2,4,4-)	7		THA.	
* * * *		*	*	*
[REVISE]				
Tripropylene, see Propylene trimer				PTR
* * * *		*	*	*
Tripropylene glycol methyl ether, see Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether.			TGM	PAG
Trisodium nitrilotriacetate solution, see Nitrilotriacetic acid, trisodium salt solution.			TSO	NCA (TSN)
* * * *		*	*	*
Trisodium salt of N-(Hydroxyethyl)ethylenediaminetriacetic acid solution, see N-(Hydroxyethyl)ethylenediaminetriacetic acid, trisodium salt solution.				HET
Trixylyl phosphate	34			TRP
Trixylenyl phosphate, see Trixylyl phosphate				TRP
Tung oil, see Oil, misc.: Tung				OTG
* * * *		*	*	*
Turpentine substitute, see White spirit (low (15–20%) aromatic)				WSL (WSP)
Undecane (all isomers), see Alkanes (C10+) (all isomers)			UDN	ALV (ALJ)
* * * *		*	*	*
Undecanol, see Undecyl alcohol				UND (ALR)
* * * *		*	*	*
Undecylbenzene, see Alkyl (C9+) benzenes			UDB	AKB
Urea solution	43		USL	URE
Urea, Ammonium mono- and di-hydrogen phosphate/Potassium chloride solution.	0	1	UPX.	
Urea/Ammonium nitrate solution (containing less than 1% free Ammonia)	43	2	UAU	ANU/UAS/UAT/UAV
Urea/Ammonium nitrate solution (containing 1% or more free Ammonia)	6		UAT	ANU/UAS
Urea/Ammonium phosphate solution	43		UAP.	
[ADD]				
Vacuum gas oil, see oil misc.: Vacuum gas oil	33		OVC.	
[REVISE]				
Valeraldehyde (all isomers)	19		VAK	IVA/VAL
* * * *		*	*	*
Vegetable acid oils, n.o.s.	34		VAD.	
Including:				
Corn acid oil	34			
Cottonseed acid oil	34			
Dark mixed acid oil	34			
Groundnut acid oil	34			
Mixed acid oil	34			
Mixed general acid oil	34			
Mixed hard acid oil	34			
Mixed soft acid oil	34			
Rapeseed acid oil	34			
Safflower acid oil	34			
Soya acid oil	34			
Sunflower seed acid oil	34			
Vegetable fatty acid distillates, n.o.s.	34	3	VFD.	
Including:				
Palm kernel fatty acid distillate	34			
Palm oil fatty acid distillate	34			
Tall fatty acid distillate	34			
Tall oil fatty acid distillate	34			
Vegetable oils, n.o.s.	34		VAD.	
Including:				
Beechnut oil	34			
Camelina oil	34			

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
Cashew nut shell	34			
Castor oil	34			
Cocoa butter	34			
Coconut oil	34	2		
Corn oil	34			
Cottonseed oil	34			
Croton oil	34			
Grape seed oil	34			
Groundnut acid oil	34			
Hazelnut oil	34			
Illipe oil	34			
Jatropha oil	34	3		
Linseed oil	34			
Mango kernel oil	34			
Nutmeg butter	34			
Oiticica oil	34			
Olive oil	34			
Palm kernel oil	34			
Palm kernel olein	34			
Palm kernel stearin	34			
Palm mid fraction	34			
Palm, non-edible industrial grade	34			
Palm oil	34	2, 3		
Palm olein	34			
Palm stearin	34			
Peanut oil	34			
Peel oil (oranges and lemons)	34			
Perilla oil	34			
Pine oil	34			
Poppy seed oil	34			
Poppy oil	34			
Raisin seed oil	34			
Rapeseed oil	34			
Rapeseed (low erucic acid containing less than 4% free fatty acids)	34	3		
Resin oil, distilled	30	3		
Rice bran oil	34			
Rosin oil	34			
Safflower oil	34			
Salad oil	34			
Sesame oil	34			
Shea butter	34			
Soyabean oil	34	2		
Sunflower seed oil	34			
Tall	34			
Tall, crude	34			
Tall, distilled	34			
Tall, pitch	34			
Tucum oil	34			
Tung oil	34			
Walnut oil	34			
* * * *	*		*	*
Waxes			WAX.	
Including:				
Candelilla	34		WCD.	
Carnauba	34		WCA.	
Paraffin	31		WPF.	
Petroleum	33		WPT.	
White spirit, see White spirit (low (15–20%) aromatic)			WSP	WSL
* * * *	*		*	*
Wine, see Alcoholic beverages			ABV.	
* * * *	*		*	*
Wood lignin with Sodium acetate/oxalate	0	1, 3	WOL.	
Xylenes	32	2	XLX	XLM/XLO/XLP
* * * *	*		*	*
Xylenols	21		XYL.	
* * * *	*		*	*
Zinc alkenyl carboxamide	10		ZAA	WSL

TABLE 1 TO PART 150—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Footnote	CHRIS code	Related CHRIS codes
* * * * * * *				
Zinc bromide/Calcium bromide solution, see Drilling brine (containing Zinc salts).	.....	.....	.....	DZB

Notes:

1. Because of very high reactivity, unusual conditions of carriage, or potential compatibility problems, this commodity is not assigned to a specific group in Figure 1 to 46 CFR part 150 (Compatibility Chart).
2. See Appendix I to 46 CFR part 150 (Exceptions to the Chart).
3. Entry was added from the March 2012 Annex to the 2007 edition of the IBC Code (MEPC 63/23/Add.1), the December 2012 IMO Marine Environmental Protection Committee Circular (MEPC.2/Circ.18), or the December 2013 IMO Marine Environmental Protection Committee Circular (MEPC.2/Circ.19).
4. *Italicized* words are not part of the cargo name but may be used in addition to the cargo name.

■ 8. Amend Table II to Part 150 as follows:
■ a. Revise the table heading;
■ b. In section 0. Unassigned, revise the group heading to read as ''Unassigned Cargoes'' and remove the entries for:
■ i. ''Alkyl (C8–C10)/(C12–C14): (60% or more/40% or less)'';
■ ii. ''polyglucoside solution (55% or less)'';
■ iii. ''Aluminium chloride, Hydrochloric acid solution'';
■ iv. ''tert-Dodecanethiol'';
■ v. ''Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid solution'';
■ vi. ''Fuming sulfuric acid'';
■ vii. ''Ligninsulfonic acid, sodium salt solution'';
■ viii. ''NIAX POLYOL APP 240C'';
■ ix. ''Noxious Liquid Substance, n.o.s (NLS's)''; and
■ x. ''SAP 7001''.
■ c. In section 2. Sulfuric Acids, revise the group heading to read ''Sulfuric (Alternately Sulphuric) Acids'';
■ d. In section 3. Nitric Acids, remove the entry for ''Nitric acid (70% and over)'';
■ e. In section 4. Organic Acids, remove the entries for:
■ i. ''Acid oil mixture from soya bean, corn (maize) and sunflower oil refining'';
■ ii. ''i-Butyric acid''; ''Cashew nut shell oil (untreated)'';
■ iii. ''Chloroacetic acid solution'';
■ iv. ''2-Ethylhexanoic acid'';
■ v. ''Fatty acids, (C8–C10)'';
■ vi. ''Fatty acids, (C12 +)'';
■ vii. ''Fatty acids, (C16 +)'';
■ viii. ''Fatty acids, essentially linear (C6–C18) 2-ethylhexyl ester'';
■ ix. ''Fatty acid methyl esters'';
■ x. ''Metal fatty acid salt'';
■ xi. ''Metal long chain alkyl salt''; and
■ xii. ''Microsilica slurry''.
■ f. In section 5. Caustics, remove the entries for:
■ i. ''Calcium hypochlorite solutions'';
■ ii. ''Cresylate spent caustic'';
■ iii. ''Sodium hydroxide solution''; and
■ iv. ''Sodium napthenate solution''.
■ g. In section 6. Ammonia, remove the entries for ''Ammonia, aqueous'' and ''Ammonium nitrate, Urea solution (containing Ammonia)'';
■ h. In section 7. Aliphatic Amines, remove the entries for:
■ i. ''Alkenylamine mixtures'';
■ ii. ''Alkyl (greater than C8) amine, Alkenyl (greater than C12) acid ester in mineral oil'';
■ iii. ''Calcium long chain alkyl phenolic amine (C8–C40)'';
■ iv. ''Diphenylamine, reaction product with 2,2,4-Trimethylpentene'';
■ v. ''Diphenylamines, alkylated'';
■ vi. ''Hexamethylenediamine'';
■ vii. ''Hexamethylenetetramine'';
■ viii. ''HiTec 321'';
■ ix. ''Polyalkyl alkeneamine succinimide, molybdenum oxysulfide'';
■ x. ''Polyolefin amide alkeneamine (C28 +)'';
■ xi. ''Polyolefin amide alkeneamine polyol'';
■ xii. ''Propanil, Mesityl oxide, Isophorone mixture''; and
■ xiii. ''Roundup''.
■ i. In section 8. Alkanolamines, remove the entries for ''Diethylethanolamine'', ''N,N-bis (2-Hydroxyethyl) oleamide'', and ''Ucarsol CR Solvent 302 SG'';
■ j. In section 9. Aromatic Amines, remove the entries for ''Dimethylamine salt of 4-Chloro-2-methylphenoxyacetic acid solution'' and ''Diphenylamine'';
■ k. In section 11. Organic Anhydrides, remove the entries for ''Alkyl succinic anhydride'' and ''Phthalate based polyester polyol'';
■ l. In section 14. Acrylates, remove the entries for:
■ i. ''i-Butyl methacrylate'';
■ ii. ''Butyl methacrylate, Decyl methacrylate, Cetyl-Eicosyl methacrylate mixture'';
■ iii. ''Polyalkyl methacrylate'';
■ iv. ''Polyalkyl methacrylate solution (containing max 40% active material)'';
■ v. ''Propylene copolymer mixture''; and
■ vi. ''Roehm monomer 6615''.
■ m. In section 18. Ketones, remove the entries for ''Amyl methyl ketone'', ''Epoxy resin'', and ''Trifluralin in Xylene'';
■ n. In section 19. Aldehydes, remove the entry for ''Ethylhexaldehyde'';
■ o. In section 20. Alcohols, Glycols, remove the entries for:
■ i. ''Brake fluid base mixtures'';
■ ii. ''iso-Butyl alcohol'';
■ iii. ''t-Butyl alcohols'';
■ iv. ''Cetyl-Stearyl alcohol'';
■ v. ''Cyclopentanol'';
■ vi. ''Diethyl hexanol'';
■ vii. ''Diethylene glycol'';
■ viii. ''Diethylene glycol dibenzoate'';
■ ix. ''Diisobutyl carbinol'';
■ x ''Dodecanol'';
■ xi. ''Dodecyl hydroxypropyl sulfide'';
■ xii. ''2-Ethoxyethanol'';
■ xiii. ''2-Ethylhexanol'';
■ xiv. ''Glycol'';
■ xv. ''Hydroxy terminated polybutadiene'';
■ xvi. ''Icosa(oxypropane-2,3-diyl)s'';
■ xvii. ''Lauryl polyglucose (50% or less)'';
■ xviii. ''Pentadecanol'';
■ xix. ''Rum'';
■ xx. ''Sodium methylate solution (21–30% in Methanol)'';
■ xxi. ''Tetradecanol''; and
■ xxii. ''Tridecanol''.
■ p. In section 22. Caprolactam Solutions, remove the entry for ''Caprolactam solution'';
■ q. In section 30. Olefins, remove the entries for:
■ i. ''Amylene'';
■ ii. ''Butadiene Feedstock [Kirby]'';
■ iii. ''Butene'';
■ iv. ''Dichloropropene'';
■ v. ''Dicyclopentadiene'';
■ vi. ''Ethylene-Propylene copolymer'';
■ vii. ''Olefin mixtures'';
■ viii. ''alpha-Olefins (C13 +)'';
■ ix. ''Polybutene'';
■ x. ''Polyolefin (molecular weight 300 +)''; and
■ xi. ''Polypropylene''.
■ r. In section 31. Paraffins, remove the entries for:
■ i. ''Aviation alkylates (C8 paraffins and iso-paraffins BPT 95–120 °C)'';

■ ii. ''Decane'';
■ iii. ''Dodecane'';
■ iv. ''Heptane'';
■ v. ''Hexane'';
■ vi. ''Mineral oil'';
■ vii. ''Polyolefin (molecular weight 300 +)'';
■ viii. ''iso-Propylcyclohexane'';
■ ix. ''Tridecane''; and
■ x. ''Paraffin''.
■ s. In section 32 Aromatic Hydrocarbons, revise the group heading to read ''Aromatic Hydrocarbon Mixtures''and remove the entries for:
■ i. ''Aryl polyolefin (C11–C50)'';
■ ii. ''Butylbenzene (all isomers)'';
■ iii. ''Cumene'';
■ iv. ''Decylbenzene'';
■ v. ''Dialkyl(C10–C14) benzenes'';
■ vi. ''Dodecylbenzene'';
■ vii. ''1-Hexadecylnaphthalene, 1, 4-bis(Hexadecyl)'';
■ viii. ''Isopropylbenzene'';
■ ix. ''Naphthalene mixture'';
■ x. ''Propylbenzene'';
■ xi. ''Pseudocumene'';
■ xii. ''Tetradecylbenzene''; and
■ xiii. ''Undecylbenzene''.
■ t. In section 33. Miscellaneous Hydrocarbon Mixtures, remove the entries for:
■ i. ''Alachlor'';
■ ii. ''Alkyl toluene sulfonic acid, calcium salts'';
■ iii. ''Degummed C9 (DOW)'';
■ iv. ''Distillates'';
■ v. ''Maleated ethylene-propylene copolymer reaction product [synthetic rubber]'';
■ vi. ''Pine oil'';
■ vii. ''Resin oil, distilled''; and
■ viii. ''Sodium petroleum sulfonate''.
■ u. In section 34. Esters, remove the entries for:
■ i. ''Acid oil mixture from soybean, corn (maize) and sunflower oil refining'';
■ ii. ''Alkane (C14–C17) sulfonic acid, sodium salt solution'';
■ iii. ''Alkyl ester copolymer (C6–C18)'';
■ iv. ''Alkylaryl phosphate mixtures (more than 40%)'';
■ v. ''t-Amyl formate'';
■ vi. ''iso-Butyl isobutyrate'';
■ vii. ''Calcium alkaryl sulfonate (C11–C50) Calcium alkyl(C9)phenol sulfide, polyolefin phosphorosulfide mixture'';
■ viii. ''Calcium long chain alkyl phenates'';
■ ix. ''Calcium nitrate'';
■ x. ''Camelina oil'';
■ xi. ''Cesium formate solution'';
■ xii. ''Coconut oil, fatty acid'';
■ xiii. ''Coconut oil, fatty acid methyl ester'';
■ xiv. ''Copper salt of long chain alkanoic acids'';
■ xv. ''Cottonseed oil, fatty acid'';
■ xvi. ''Dialkyl(C7–C13) phthalates'';
■ xvii. ''Diethylene glycol butyl ether acetate'';
■ xviii. ''Diethylene glycol ethyl ether acetate'';
■ xix. ''Diethylene glycol methyl ether acetate'';
■ xx. ''Diheptyl phthalate'';
■ xxi. ''Dihexyl phthalate'';
■ xxii. ''Diisodecyl phthalate'';
■ xxiii.''Diisononyl adipate'';
■ xxiv. ''Diisononyl phthalate'';
■ xxv. ''Diisooctyl phthalate'';
■ xxvi. ''Dinonyl phthalate'';
■ xxvii. ''Dioctyl phthalate'';
■ xxviii. ''Diphenyl tolyl phosphate, less than 0.02% ortho-isomer)'';
■ xxix. ''Ditridecyl phthalate'';
■ xxx. ''Diundecyl phthalate'';
■ xxxi. ''Ethyl propionate'',
■ xxxii. ''Ethylene glycol'';
■ xxxiii. ''Ethylene glycol ethyl ether acetate'';
■ xxxiv. ''Fatty acids (saturated, C14 +)'';
■ xxxv. ''Glycerol polyalkoxylate'';
■ xxxvi. ''Lard'';
■ xxxvii. ''Magnesium long chain alkyl phenate sulfide (C8–C40)'';
■ xxxviii. ''Magnesium long chain alkyl salicylate (C13 +)'';
■ xxxix. ''Mango kernel'';
■ xl. ''Olefin/Alkyl ester copolymer (molecular weight 2000 +)'';
■ xli. ''Oleic acid'';
■ xlii. ''Palm acid oil'';
■ xliii. ''Palm fatty acid distillate'';
■ xliv. ''Palm kernel acid oil'';
■ xlv. ''Palm kernel acid oil, methyl esterPalm kernel oil fatty acid'';
■ xlvi. ''Palm mid fraction'';
■ xlvii. ''Palm oil'';
■ xlviii. ''Palm oil fatty acid'';
■ xlix. ''Palm oil fatty acid methyl ester'';
■ l. ''Palm kernel olein'';
■ li. ''Palm kernel stearin'';
■ lii. ''Palm olein'';
■ liii. ''Palm stearin'';
■ liv. ''Polydimethylsiloxane'';
■ lv. ''Polyolefin amide alkeneamine borate (C28–C250)'';
■ lvi. ''Rapeseed oil fatty acid methyl esters'';
■ lvii. ''Rapeseed oil (low erucic acid containing less than 4% free fatty acids)'';
■ lviii. ''Siloxanes'';
■ lix. ''Sodium bromide solution (less than 50%)'';
■ lx. ''Soyabean oil (epoxidized)'';
■ lxi. ''Stearic acid'';
■ lxii. ''Tall oil'';
■ lxiii. ''Tall oil, crude'';
■ lxiv. ''Tall oil, distilled'';
■ lxv. ''Tall oil fatty acid (*Resin acids less than 20%*)'';
■ lxvi. ''Tall oil, pitch'';
■ lxvii. ''Tricresyl phosphate''; and
■ lxviii. ''Urea/Ammonium nitrate solution''.
■ v. In section 36. Halogenated Hydrocarbons, remove the entries for:
■ i. ''Chlorodifluoromethane'';
■ ii. ''Chlorotoluene'';
■ iii. ''Dibutylphenols''; and
■ iv. ''1,2,3-Trichlorobenzene''.
■ w. In section 38. Carbon Disulfide, revise the group name to read ''Carbon Disulfide (Alternately Disulphide)'';
■ x. In section 39. Sulfolane, revise the group name to read ''Sulfolane (Alternately Sulpholane)'';;
■ y. In section 40. Glycol Ethers, remove the entries for:
■ i. ''Alcohol (C9–C11) poly (2.5–9) ethoxylates'';
■ ii. ''Alcohol (C6–C17) (secondary) poly (3–6) ethoxylates'';
■ iii. ''Alcohol (C6–C17) (secondary) poly (7–12) ethoxylates'';
■ iv. ''Alcohol (C12–C16) poly (1–6) ethoxylates'';
■ v. ''Alcohol (C12–C16) poly (7–19) ethoxylates'';
■ vi. ''Alcohol (C12–C16) poly (20 +) ethoxylates'';
■ vii. ''Hexaethylene glycol'';
■ viii. ''Polyether glycol'';
■ viii. ''Polyether glycol (MW 600–700) (TETRAETHANE 650)'';
■ ix. ''Polyether glycol (MW 950–1050) (TETRAETHANE 1000)'';
■ x. ''Polyether glycol (MW 1350–1450) (TETRAETHANE 1400)'';
■ xi. ''Polyether glycol (MW 1900–2100) (TETRAETHANE 2000)'';
■ xii. ''Polyether glycol (MW 2825–2975) (TETRAETHANE 2900)''; and
■ xiii.''Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether acetate''.
■ z. In section 41. Ethers, remove the entries for:
■ i. ''Brominated Epoxy Resin in Acetone'';
■ ii. ''Diethylene glycol propyl ether'';
■ iii. ''Diglycidyl ether of Bisphenol A'';
■ iv. ''Diglycidyl ether of Bisphenol F''; and
■ v. ''Ethyl ether''.
■ aa. In section 42. Nitrocompounds, remove the entry for ''Nitropropane'';
■ bb. In section 43. Miscellaneous Water Solutions, remove the entries for:
■ i. ''Alkyl polyglucoside solutions'';
■ ii. ''Aluminum hydroxide, sodium hydroxide, sodium carbonate solution (40% or less)'';
■ iii. ''Ammonium chloride solution (less than 25%) drilling brines'';
■ iv. ''Ammonium lignosulfonate solution'';
■ v. ''Ammonium nitrate, Urea solution (not containing Ammonia)'';
■ vi. ''Barium sulfate slurry'';
■ vii. ''Calcium bromide solution'';
■ viii. ''Calcium chloride solution'';
■ ix. ''Calcium formate solution'';
■ x. ''Calcium lignosulfate solution'';
■ xi. ''Calcium lignosulfate solution (free alkali content 1% or less)'';

■ xii. ''Diethanolamine salt of 2,4-Dichlorophenoxyacetic acid solution'';

■ xiii. ''Ferrous chloride solution (less than 40%, containing less than 10% Manganese and Aluminum chlorides)'';

■ xiv. ''Potassium thiosulfate solution'';

■ xv. ''Sodium alkyl sulfonate solution''; and

■ xvi. ''Sodium sulfite solution''.

■ cc. In the following table, for the ''Cargo'' column, under the appropriate ''Group'' heading, add the entries marked ''[ADD]'' in the appropriate alphabetical order and revise the entries marked ''[REVISE]''; and

■ dd. Revise the notes at the end of the table.

The revisions and additons read as follows:

TABLE 2 TO PART 150—GROUPING OF CARGOES

0. UNASSIGNED CARGOES
[REVISE]
Acetone cyanohydrin.
Alkenoic acid, polyhydroxy ester borated.
Alkylbenzene distillation bottoms.
Alkyl (C11–C17) benzene sulfonic (alternately sulphonic) acid.
Alkylbenzene sulfonic (alternately sulphonic) acid (less than 4%).
Alkyl (C18–C28) toluenesulfonic (alternately toluenesulphonic) acid.
Aluminum (alternately Aluminium) chloride/Hydrogen chloride solution.
Ammonium hydrogen phosphate solution.
Ammonium nitrate solution (45% or less).
[ADD]
Ammonium nitrate solution (93% or less).
[REVISE]
Ammonium thiocyanate/Ammonium thiosulfate (alternately thiosulphate) solution.
[ADD]
Argon, liquefied.
[REVISE]
Benzenesulfonyl (alternately Benzenesulphonyl) chloride.[1]
gamma-Butyrolactone.[1]
[ADD]
Carbon dioxide (high purity).
Carbon dioxide (reclaimed quality).
Carbon dioxide, liquefied.
[REVISE]
Chlorine.
[ADD]
2-Chloro-4-ethylamino-6-isopropylamino-5-triazine solution.
[REVISE]
Chlorosulfonic (alternately Chlorosulphonic) acid.
Decyloxytetrahydro-thiophene dioxide.
2,4-Dichlorophenoxyacetic acid, Dimethylamine salt solution (70% or less).[1]
Dimethyl disulfide (alternately disulphide).
Diphenylol propane-Epichlorohydrin resins.
[ADD]
Disulfide (alternately Disulphide).
[REVISE]
Dodecyl hydroxypropyl sulfide (alternately sulphide).[1]
Dodecylbenzenesulfonic (alternately Dodecylbenzenesulphonic) acid.[1]
Ethylene oxide.
Hydrogen peroxide solutions (over 60% but not more than 70% by mass).
[ADD]
Hydrogen peroxide solutions (over 8% but not more than 60% by mass).
[REVISE]
Hydrogenated starch hydrolysate.
Lactic acid.[1]
Liquid chemical wastes.
Long-chain alkaryl sulfonic (alternately sulphonic) acid (C16–C60).[1]
Magnesium chloride solution.[1]
Maltitol solution.
Methylcyclopentadienyl manganese tricarbonyl.
Methylcyclopentadienyl manganese tricarbonyl (60–70%) in mineral oil.
Molasses residue (from fermentation).
Molybdenum polysulfide (alternately polysulphide) long-chain alkyl dithiocarbamide complex.
Motor fuel anti-knock compound (containing lead alkyls).
Naphthalene sulfonic (alternately sulphonic) acid-formaldehyde copolymer, sodium salt solution.
Nitrating acid (mixture of Sulfuric (alternately Sulphuric) and Nitric acids).
Nitric acid (70% and over).[1]
Nitric acid fuming.
[ADD]
Nitric acid red fuming.
Nitrogen.
[REVISE]
o-Nitrophenol (molten).[1]
[ADD]

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Noxious Liquid Substance, NF, (1) n.o.s. (''trade name'' contains ''principal components'') Cat X.
Noxious Liquid Substance, F, (2) n.o.s. (''trade name'' contains ''principal components'') Cat X.
Noxious Liquid Substance, NF, (3) n.o.s. (''trade name'' contains ''principal components'') Cat X.
Noxious Liquid Substance, F, (4) n.o.s. (''trade name'' contains ''principal components'') Cat X.
Noxious Liquid Substance, NF, (5) n.o.s. (''trade name'' contains ''principal components'') Cat Y.
Noxious Liquid Substance, F, (6) n.o.s. (''trade name'' contains ''principal components'') Cat Y.
Noxious Liquid Substance, NF, (7) n.o.s. (''trade name'' contains ''principal components'') Cat Y.
Noxious Liquid Substance, F, (8) n.o.s. (''trade name'' contains ''principal components'') Cat Y.
Noxious Liquid Substance, NF, (9) n.o.s. (''trade name'' contains ''principal components'') Cat Z.
Noxious Liquid Substance, F, (10) n.o.s. (''trade name'' contains ''principal components'') Cat Z.
Noxious Liquid Substance, (11) n.o.s. (''trade name'' contains ''principal components'') Cat Z.
[REVISE]
Non-noxious Liquid Substance, (12) n.o.s. (''trade name'' contains ''principal components'') Cat OS.
[ADD]
n-Octyl Mercaptan.
[REVISE]
Oleum.[1]
Orange juice (concentrated).
Orange juice (not concentrated).
Oxygenated aliphatic hydrocarbon mixture.
Phosphorus, yellow or white.
[ADD]
Phosphosulfurized (alternately Phosphosulphurized) bicycle terpene.
[REVISE]
Phthalate-based polyester polyol.[1]
[ADD]
Polyalkylalkenaminesuccinimide, molybdenum oxysulfide.
[REVISE]
Potassium polysulfide (alternately polysulphide), Potassium thiosulfide (alternately thiosulphide) solution (41% or less).
2-Propene-1-aminium, N,N-dimethyl-N-2-propenyl-, chloride, homopolymer solution.
[ADD]
Refrigerant gases.
[REVISE]
Sodium chlorate solution (50% or less).[1]
Sodium dichromate solution (70% or less).[1]
Sodium hydrogen sulfide (alternately sulphide) (6% or less)/Sodium carbonate (3% or less) solution.[1]
[ADD]
Sodium methoxide (25% in methanol).
Sodium methylate (21–30% in methanol).
Sodium sulfide (alternately sulphide)/Hydrosulfide (alternately Hydrosulphide) solution (H_2S 15 ppm or less).
[REVISE]
Sodium sulfide (alternately sulphide), Hydrosulfide (alternately Hydrosulphide) solution (H_2S greater than 15 ppm but less than 200 ppm).[1]
[ADD]
Sodium sulfide (alternately sulphide)/Hydrosulfide (alternately Hydrosulphide) solution (H_2S greater than 200 ppm).
[REVISE]
Sodium thiocyanate solution (56% or less).[1]
Sulfur (alternately Sulphur) (molten).
[ADD]
Sulfur (alternately Sulphur) dioxide.
[REVISE]
Tall oil fatty acid, barium salt.[1]
Tetraethyl silicate monomer/oligomer (20% in ethanol).
Urea, Ammonium mono- and di-hydrogen phosphate/Potassium chloride solution.
Wood lignin with Sodium acetate/oxalate.
1. NON-OXIDIZING MINERAL ACIDS
[REVISE]
Di-(2-ethylhexyl) phosphoric acid.

* * * * * * *

[ADD]
Hydrofluorosilicic acid (25% or less).

* * * * * * *

[REVISE]
Polyaluminum (alternately Polyaluminium) chloride solution.
2. SULFURIC (ALTERNATELY SULPHURIC) ACIDS
[REVISE]
Sulfuric (alternately Sulphuric) acid.[1]
Sulfuric (alternately sulphuric) acid, spent.

* * * * * * *

3. NITRIC ACIDS
[REVISE]
Ferric nitrate/Nitric acid solution.

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Nitric acid (70% or less).
4. ORGANIC ACIDS
[REVISE]
Acetic acid.[1]
Acrylic acid.[1]
Butyric acid.
Chloroacetic acid (80% or less).
2- or 3-Chloropropionic acid.
Citric acid (70% or less).
Decanoic acid.
2,2-Dichloropropionic acid.
Dimethyl octanoic acid.
Formic acid.[1]
[ADD]
Formic acid (85% or less).
[REVISE]
Formic acid (over 85%).
Formic acid mixture (containing up to 18% Propionic acid and up to 25% Sodium formate).
Glycolic acid (70% or less).
Glyoxylic acid solution (50% or less).
n-Heptanoic acid.
1,6-Hexanediol, distillation overheads.

* * * * * * *

Long-chain alkyl (C13+) salicylic acid.
Methacrylic acid.
Naphthenic acid.
Neodecanoic acid.
Nonanoic acid (all isomers).
Nonanoic/Tridecanoic acid mixture.
Octanoic acid (all isomers).
[ADD]
Oleic acid.
[REVISE]
Pentanoic acid.
n-Pentanoic acid (64%)/2-Methyl butyric acid (36%) mixture.
Propionic acid.

* * * * * * *

5. CAUSTICS
[ADD]
Aluminum (alternately Aluminium) hydroxide/sodium hydroxide/sodium carbonate solution (40% or less).
[REVISE]
Ammonium sulfide (alternately sulphide) solution (45% or less).
[ADD]
Calcium hydroxide slurry.
[REVISE]
Calcium hypochlorite solution (15% or less).
Calcium hypochlorite solution (more than 15%).
Caustic potash solution.[1]
Caustic soda solution.[1]
Cresylic acid, sodium salt solution.
[ADD]
1,4-Dihydro-9,10-dihydroxy anthracene, disodium salt solution.
[REVISE]
Kraft black liquor.
Kraft pulping liquors (free alkali content 3% or more) (Black, Green, or White).
[ADD]
Magnesium hydroxide slurry.
[REVISE]
Mercaptobenzothiazol, sodium salt solution.
[ADD]
2-Mercaptobenzothiazol (in liquid mixture).
[REVISE]
Potassium hydroxide solution.[1]
[ADD]
Sodium acetate, Glycol, Water mixture (containing 1% or less Sodium hydroxide) (if non-flammable or non-combustible).
[REVISE]
Sodium acetate, Glycol, Water mixture (containing Sodium hydroxide).

* * * * * * *

[ADD]
Sodium aluminate solution (45% or less).
[REVISE]

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Sodium borohydride (15% or less)/Sodium hydroxide solution.
Sodium carbonate solutions.

* * * * * * *

Sodium hydrosulfide (alternately hydrosulphide) solution (45% or less).[1]
Sodium hydrosulfide (alternately hydrosulphide)/Ammonium sulfide (alternately sulphide) solution.[1]
Sodium hypochlorite solution (15% or less).
[ADD]
Sodium hypochlorite solution (20% or less).

* * * * * * *

[REVISE]
Triphenylborane (10% or less)/Caustic soda solution.

* * * * * * *

Vanillin black liquor (free alkali content 3% or more).
6. AMMONIA

* * * * * * *

[REVISE]
Urea/Ammonium nitrate solution (containing 1% or more Ammonia).
7. ALIPHATIC AMINES
[REVISE]
Alkyl amine (C17+).
Alkyl (C12+) dimethylamine.

* * * * * * *

Butylamine (all isomers).
Crude piperazine.

* * * * * * *

Diethylamine.[1]
Diethylenetriamine.[1]

* * * * * * *

Di-n-propylamine.
Dodecylamine/Tetradecylamine mixture.
Dodecyldimethylamine/Tetradecyldimethylamine mixture.
Ethoxylated tallow alkyl amine.
Ethoxylated tallow alkyl amine, glycol mixture.
Ethoxylated tallow amine (>95%).
Ethylamine.[1]
Ethylamine solution (72% or less).
N-Ethylbutylamine.
N-Ethylcyclohexylamine.
Ethyleneamine EA 1302.[1]
Ethylenediamine.[1]
2-Ethylhexylamine.
N-Ethylmethylallylamine.
[ADD]
Glycine, sodium salt solution.
[REVISE]
Glyphosate solution (not containing surfactant).
Hexamethylenediamine (molten).
Hexamethylenediamine solution.
Hexamethylenimine.
Hexamethylenetetramine solutions.
bis-(Hydrogenated tallow alkyl) methyl amines.
Isophoronediamine.

* * * * * * *

Isopropylamine (70% or less) solution.
Long-chain alkyl amine.
Long-chain polyetheramine in alkyl (C2–C4) benzenes.

* * * * * * *

Methylamine solutions (42% or less).
[ADD]
2-Methyl-1,5-pentanediamine.
Monoethylamine.
[REVISE]
Morpholine.[1]

* * * * * * *

Pentaethylenehexamine/Tetraethylenepentamine mixture.

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Phosphate esters, alkyl (C12–C14) amine.
[ADD]
Piperazine (70% or less).
Piperazine (crude).
Piperazine, 68% solution.
[REVISE]
Polyalkenyl succinic anhydride amine.
Polyethylene polyamines.[1]
Polyethylene polyamines (more than 50% C5–C20 Paraffin oil).

* * * * * * *

[ADD]
(Polyisobutene) amino products in aliphatic hydrocarbons.
[REVISE]
Polyolefin amide alkeneamine/Molybdenum oxysulfide (alternately oxysulphide) mixture.
Polyolefin amine (C17+).
Polyoxypropylenediamine (molecular weight 2000).
n-Propylamine.
iso-Propylamine solution.
[ADD]
Sodium N-methyl dithio carbamate solution.
[REVISE]
Sulfohydrocarbon (alternately Sulphohydrocarbon), long-chain (C18+) alkylamine mixture.
Tetraethylenepentamine.[1]

* * * * * * *

Triethylenetetramine.[1]
Trimethylamine solution (30% or less).
Trimethylhexamethylenediamine (2,2,4- and 2,4,4-).
8. ALKANOLAMINES
[REVISE]
Alkyl (C12–C16) propoxyamine ethoxylates.

* * * * * * *

Aminoethyldiethanolamine/Aminoethylethanolamine solution.

* * * * * * *

Diethylaminoethanol.
Diisopropanolamine.
Dimethylethanolamine.[1]

* * * * * * *

Ethoxylated long-chain (C16+) alkyloxyalkanamine.

* * * * * * *

Isopropanolamine solution.
Linear alkyl (C12–C16) propoxyamine ethoxylates.

* * * * * * *

[ADD]
Monoethanolamine.
Monoisopropanolamine.
[REVISE]
n-Propanolamine.
Triethanolamine.
Triisopropanolamine.
9. AROMATIC AMINES

* * * * * * *

[ADD]
2,6-Diethylaniline.
2,6-Dimethylaniline.
Diphenylamine (molten).

* * * * * * *

2-Methyl-5-ethylpyridine.
Methylpyridine.

* * * * * * *

[ADD]
3-Methylpyridine.
[REVISE]
4-Methylpyridine.
N-Methyl-2-pyrrolidone.[1]

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

* * * * * * *

o-Toluidine.

10. AMIDES

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[REVISE]

Alkenyl (C11+) amide.

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N,N-bis(2-Hydroxyethyl) oleamide.

Octadecenoamide solution.

[ADD]

Oleamide solution.

[REVISE]

Organomolybdenum amide.

* * * * * * *

Polyisobutenyl succinimide.

[ADD]

Sulfurized (alternately Sulphurized) polyolefinamide.

* * * * * * *

11. ORGANIC ANHYDRIDES

[REVISE]

Acetic anhydride.

[ADD]

Alkenyl (C16–C20) succinic anhydride.

[REVISE]

Alkyl succinic anhydride.

Maleic anhydride.

[ADD]

Maleic anhydride/sodium allylsulphonate copolymer solution.

[REVISE]

Phthalic anhydride (molten).

* * * * * * *

13. VINYL ACETATES

* * * * * * *

[REVISE]

Vinyltoluene.

14. ACRYLATES

[REVISE]

Butyl acrylate (all isomers).

Butyl methacrylate.

Butyl/Decyl/Cetyl/Eicosyl methacrylate mixture.

Cetyl/Eicosyl methacrylate mixture.

* * * * * * *

Dodecyl/Octadecyl methacrylate mixture.

Dodecyl/Pentadecyl methacrylate mixture.

* * * * * * *

2-Hydroxyethyl acrylate.[1]

* * * * * * *

Methacrylic resin in ethylene dichloride.

* * * * * * *

Methyl methacrylate.

Nonyl methacrylate monomer.

Polyalkyl acrylate.

Polyalkyl(C18–C22) acrylate in Xylene.

Polyalkyl (C10–C20) methacrylate.

Polyalkyl methacrylate in mineral oil.

Polyalkyl (C10–C18) methacrylate/Ethylene-propylene copolymer mixture.

15. SUBSTITUTED ALLYLS

[ADD]

Acrylonitrile.[1]

[REVISE]

Allyl alcohol.[1]

Allyl chloride.

Dichloropropene (all isomers).

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

1,3-Dichloropropene.
Dichloropropene/Dichloropropane mixtures.

* * * * * * *

16. ALKYLENE OXIDES
[ADD]
Brominated Epoxy Resin in Acetone.
[REVISE]
1,2-Butylene oxide.
[ADD]
Diglycidyl ether of Bisphenol A.
Diglycidyl ether of Bisphenol F.
Epoxy resin.
[REVISE]
Ethylene oxide/Propylene oxide mixture.

* * * * * * *

17. EPICHLOROHYDRINS
[ADD]
Chlorohydrins.

* * * * * * *

18. KETONES
[REVISE]
Acetone.[1]
Acetophenone.
Butyl heptyl ketone.
Camphor oil (light).
1-(4-Chlorophenyl)-4,4-dimethyl pentan-3-one.[1]

* * * * * * *

Cyclohexanone/Cyclohexanol mixtures.

* * * * * * *

Ethyl amyl ketone.
Isophorone.
Ketone residue.
Mesityl oxide.[1]
Methyl amyl ketone.
[ADD]
Methyl butyl ketone.
Methyl ethyl ketone.[1]
Methyl heptyl ketone.
Methyl isoamyl ketone.
Methyl isobutyl ketone.[1]
Methyl propyl ketone.

* * * * * * *

19. ALDEHYDES

* * * * * * *

[REVISE]
Acrolein.[1]

* * * * * * *

Crotonaldehyde.[1]
[ADD]
Crude isononylaldehyde.
[REVISE]
Decaldehyde.
[ADD]
n-Decaldehyde.
[REVISE]
2-Ethyl-3-propylacrolein.[1]
Formaldehyde (50% or more)/Methanol mixtures.[1]
Formaldehyde solutions (37%–50%).[1]
[ADD]
Formaldehyde solutions (45% or less).[1]
[REVISE]
Furfural.
Glutaraldehyde solutions (50% or less).
Glyoxal solution (40% or less).
[ADD]
Isodecaldehyde.

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Isononylaldehyde (crude).
[REVISE]
3-Methyl butyraldehyde.

* * * * * * *

Propionaldehyde.
Valeraldehyde (all isomers).
20. ALCOHOLS, GLYCOLS
[REVISE]
Acrylonitrile-Styrene copolymer dispersion in Polyether polyol.
[ADD]
Alcohol (C9–C11) poly (2.5–9) ethoxylates.
Alcohol (C6–C17) (secondary) poly (3–6) ethoxylates.
Alcohol (C6–C17) (secondary) poly (7–12) ethoxylates.
Alcohol (C12–C16) poly (1–6) ethoxylates.
Alcohol (C12–C16) poly (7–19) ethoxylates.
Alcohol (C12–C16) poly (20+) ethoxylates.

* * * * * * *

[REVISE]
Alcohol polyethoxylates, secondary.
Alcoholic beverages, n.o.s.
Alcohols (C12+), primary, linear.
[ADD]
Alcohols (C8–C11), primary, linear and essentially linear.
[REVISE]
Alcohols (C12–C13), primary, linear and essentially linear.
Alcohols (C14–C18), primary, linear and essentially linear.
Alcohols (C13+):
- Cetyl Alcohol (Hexadecanol).
- Oleyl Alcohol (Octadecenol).
- Pentadecanol.
- Tallow alcohol.
- Tetradecanol.
- Tridecanol.

Amyl alcohol, primary.
n-Amyl alcohol.
sec-Amyl alcohol.
tert-Amyl alcohol.

* * * * * * *

Bio-fuel blends of Gasoline and Ethyl alcohol (>25% but <99% by volume).
Brake fluid base mix: Poly(2–8)alkylene (C2–C3) glycols/Polyalkylene (C2–C10) glycols monoalkyl (C1–C4) ethers and their borate esters.
[ADD]
2-Butoxyethanol (58%)/Hyperbranched polyesteramide (42%) (mixture).
Butyl alcohol (all isomers).[1]
[REVISE]
Butylene glycol.
Choline chloride solutions.
[ADD]
Crude Isopropanol.
[REVISE]
Cyclohexanol.
Decyl alcohol (all isomers).[1]
Decyl/Dodecyl/Tetradecyl alcohol mixture.
Diacetone alcohol.[1]
2,2-Dimethylpropane-1,3-diol (molten or solution).
[ADD]
tert-Dodecanethiol.[1]
[REVISE]
Dodecyl alcohol (all isomers).
Ethoxylated alcohols, C11–C15
Ethyl alcohol.[1]

* * * * * * *

Ethylene glycol.[1]
Furfuryl alcohol.[1]
Glycerine.[1]
Glycerine (83%)/Dioxanedimethanol (17%) mixture.
[ADD]
Glycerol.
[REVISE]
Glycerol monooleate.
Glycol mixture, crude.

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Heptanol (all isomers).
[ADD]
Hexadecanol (Cetyl alcohol).
[REVISE]
Hexamethylene glycol.

* * * * * * *

Hexylene glycol.
Isoamyl alcohol.
Isobutyl alcohol.
Isopropyl alcohol.
Methacrylic acid—Alkyloxypoly (alkylene oxide) methacrylate copolymer, sodium salt aqueous solution (45% or less).
3-Methoxy-1-butanol.
Methyl alcohol.[1]

* * * * * * *

alpha-Methylbenzyl alcohol with Acetophenone (15% or less).
[ADD]
Methyl butanol.
[REVISE]
Methyl butenol.
[ADD]
Methyl 3- (3,5 di-tert-butyl-4-hydroxyphenyl) propionate crude melt.
[REVISE]
Methylbutynol.
[ADD]
Methylcyclohexanemethanol (crude).
[REVISE]
2-Methyl-2-hydroxy-3-butyne.

* * * * * * *

Molasses.
Nonyl alcohol (all isomers).[1]
[ADD]
1-Octadecanol.
Octadecenol (oleyl alcohol).
[REVISE]
Octanol (all isomers).[1]
Octyl alcohol.[1]
Pentacosa(oxypropane-2,3-diyl)s.
Polyalkylene oxide polyol.
Polybutadiene, hydroxyl terminated.
Polyglycerine/Sodium salts solution (containing less than 3% Sodium hydroxide).[1]
Polyglycerol.
Polyolefin amide alkeneamine polyol.
n-Propyl alcohol.[1]
Propylene glycol.[1]
Sorbitol solution.
Stearyl alcohol.
[ADD]
Tallow alcohol.
[REVISE]
Tallow fatty alcohol (C13+).
Trimethyl nonanol.
Trimethylol propane polyethoxylated.

* * * * * * *

[ADD]
Wine.
21. PHENOLS, CRESOLS
[ADD]
Alkyl (C4–C9) phenols.
[REVISE]
Alkylated (C4–C9) hindered phenols.

* * * * * * *

Creosote.[1]
Creosote (coal tar).
Creosote (wood tar).
Cresols (all isomers).
[ADD]
Cresols with 5% or more phenol.
Cresols with less than 5% phenol.
[REVISE]

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Cresylic acid.

* * * * * * *

Cresylic acid tar.
[ADD]
Cresylic acid with 5% or more phenol.

* * * * * * *

[REVISE]
2,4-Dichlorophenols.
Di-tert-butylphenol.
2,4-Di-tert-butylphenol.
2,6-Di-tert-butylphenol.
[ADD]
2,4-Dichlorophenol.
[REVISE]
Dodecyl phenol.
o-Ethyl phenol.
Long-chain alkylphenate/Phenol sulfide (alternately sulphide) mixture.
Methylene bridged isobutylenated phenols.
Nonylphenol.
Nonylphenol (48–62%)/Phenol (42–48%)/Dinonylphenol (1–10%) mixture.

* * * * * * *

[ADD]
Tertiary butylphenols.

* * * * * * *

30. OLEFINS
[REVISE]
Acrylic acid/ethenesulfonic (alternately ethenesulphonic) acid copolymer with phosphonate groups, sodium salt solution.
Aryl polyolefin (C11–C50).
Butadiene (all isomers).
Butadiene/Butylene mixtures (containing Acetylenes).
Butene oligomer.
Butylenes (all isomers).
1,5,9-Cyclododecatriene.
Cyclopentadiene/Styrene/Benzene mixture.
1,3-Cyclopentadiene dimer (molten).
Cyclopentene.
Decene.
Dicyclopentadiene, Resin Grade, 81–89%.

* * * * * * *

Dodecene (all isomers).
Ethylene.
Ethylidene norbornene.[1]
Heptene (all isomers).
Hexene (all isomers).
Isoprene (all isomers).
[ADD]
Isoprene (part refined).
[REVISE]
Isoprene concentrate (Shell).
Latex (ammonia (1% or less)-inhibited.
[ADD]
d-Limonene.
[REVISE]
Methyl acetylene/Propadiene mixture.
Methyl butenes.
Methylcyclopentadiene dimer.
2-Methyl-1-pentene.
4-Methyl-1-pentene.
alpha-Methylstyrene.
[ADD]
Mixed C4 Cargoes.
[REVISE]
Myrcene.
Nonene (all isomers).
1-Octadecene.
Octene (all isomers).
[ADD]
Olefin-Alkyl ester copolymer (molecular weight 2000+).
[REVISE]

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Olefin mixture (C7–C9) C8 rich, stabilized.
[ADD]
Olefins (C13+, all isomers).
[REVISE]
alpha-Olefins (C6–C18) mixtures.
1,3-Pentadiene.
1,3-Pentadiene (greater than 50%), Cyclopentene and isomers, mixtures.
Pentene (all isomers).

* * * * * * *

beta-Pinene.
[ADD]
Piperylene concentrate.
[REVISE]
Poly(4+)isobutylene (molecular weight >224).
[ADD]
Polyisobutylene (molecular weight ≤224).
[REVISE]
Polyolefin in mineral oil.
Poly(5+)propylene.
Propylene.

* * * * * * *

Propylene dimer.
Propylene tetramer.
Propylene trimer.
Propylene/Propane/MAPP gas mixture.
Styrene monomer.

* * * * * * *

Undecene.
[ADD]
1-Undecene.
31. PARAFFINS
[REVISE]
Alkanes (C10–C26) linear and branched (flash point >60 °C).
Alkanes (C10–C26) linear and branched (flash point ≤60 °C).
Alkanes (C6–C9).
[ADD]
n-Alkanes (C9–C11).
n-Alkanes (C10+) (all isomers).
[REVISE]
iso- & cyclo-Alkanes (C10–C11).
iso- & cyclo-Alkanes (C12+).
Butane (all isomers).
[ADD]
Butane/Propane mixture.

* * * * * * *

[REVISE]
Cyclopentane.
Ethane.

* * * * * * *

[ADD]
Ethylene-Propylene copolymer (in liquid mixtures).
Heptadecane (all isomers).
[REVISE]
Isopropylcyclohexane.
Methane.

* * * * * * *

2-Methyl pentane.
Nonane (all isomers).
Octane (all isomers).
Paraffin wax.
Pentane (all isomers).
Polyalpha olefins.
Propane.
Waxes: Paraffin.
32. AROMATIC HYDROCARBON MIXTURES
[REVISE]
Alkyl acrylate-Vinyl pyridine copolymer in Toluene.
Alkyl (C3–C4) benzenes:

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Butylbenzenes.
Cumene.
Propylbenzenes.
Alkyl (C5–C8) benzenes:
Amylbenzenes.
Heptylbenzenes.
Hexylbenzenes.
Octylbenzenes.
Alkyl (C9+) benzenes:
Decylbenzenes.
Dodecylbenzenes.
Nonylbezenes.
Tetradecylbenzenes.
Tetrapropylbenzenes.
Tridecylbenzenes.
Undecylbenzenes.
Alkylbenzene mixtures (containing at least 50% of Toluene).
Alkylbenzene, Alkylindane, Alkylindene mixture (each C12–C17).
Alkyl toluene.
Alkyl (C18+) toluenes.
Benzene.
[ADD]
Benzene and mixtures having 10% Benzene or more.
[REVISE]
Benzene hydrocarbon mixtures (containing Acetylenes) (having 10% Benzene or more).
Benzene/Toluene/Xylene mixtures (having 10% Benzene or more).

* * * * * * *

Butyl toluene.
C9 Resinfeed (DSM).[1]
p-Cymene.
[ADD]
Detergent alkylate.
[REVISE]
Diethylbenzene.

* * * * * * *

Diisopropylnaphthalene.
Diphenyl.
Dodecyl xylene.

* * * * * * *

Ethyl toluene.
1-Hexadecylnaphthalene/1,4-bis (Hexadecyl) naphthalene mixture.
1,n-Hexadecylnaphthalene (90%)/1,4-Di-n-(Hexadecyl) naphthalene (10%).
[ADD]
Hexylbenzenes.
[REVISE]
Methyl naphthalene (molten).
Naphthalene (molten).
Naphthalene still residue.
Parachlorobenzotrifluoride.
1-Phenyl-1-xylyl ethane.
Poly(2+) cyclic aromatics.
Polyolefinamine in alkyl (C2–C4) benzenes.
Polyolefinamine in aromatic solvent.
Pyrolysis gasoline (containing Benzene).
Tetrahydronaphthalene.
[ADD]
Tetramethylbenzene (all isomers).
[REVISE]
1,2,3,5-Tetramethylbenzene.
Toluene.
Triethylbenzene.
Trimethylbenzene (all isomers).
Xylenes.
Xylenes/Ethylbenzene (10% or more) mixture.
33. MISCELLANEOUS HYDROCARBON MIXTURES
[REVISE]
Alachlor technical (90% or more).
Alkylbenzene sulfonic (alternately sulphonic) acid, sodium salt solution.
Alkyl dithiothiadiazole (C6–C24).
Alkyl (C18–C28) toluenesulfonic (alternately toluenesulphonic) acid, Calcium salts, high overbase.
Alkyl (C18–C28) toluenesulfonic (alternately toluenesulphonic) acid, Calcium salts, low overbase.

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

[ADD]
Asphalt.
Asphalt blending stocks, roofers flux.

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Aviation alkylates (C8 paraffins and isoparaffins BPT 95 to 120 °C).
[REVISE]

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Bio-fuel blends of Diesel/gas oil and Alkanes (C10–C26), linear and branched with a flash point ≤60 °C (>25% but <99% by volume).
Calcium sulfonate (alternately sulphonate)/Calcium carbonate/Hydrocarbon solvent mixture.
Coal tar.
[ADD]
Coal tar crude bases.
[REVISE]
Coal tar distillate.
Coal tar pitch (molten).
Coal tar, high temperature.
Decahydronaphthalene.
Diphenyl/Diphenyl ether mixture.
Distillates, flashed feed stocks.

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Drilling mud (low toxicity) (if flammable or combustible).

* * * * * * *

Gasolines:
- Automotive (containing not over 4.23 grams lead per gal.).
- Aviation (containing not over 4.86 grams lead per gal.).
- Casinghead (natural).
- Polymer.
- Straight run.

Jet Fuels:
- JP-4.
- JP-5.
- JP-8.

Kerosene.
Mineral spirits.
Naphtha:
- Aromatic.
- Coal tar solvent.
- Heavy.
- Paraffinic.
- Petroleum.
- Solvent.
- Stoddard solvent.
- Varnish Makers' and Painters'.

Oil, fuel:
- No. 1.
- No. 1–D.
- No. 2.
- No. 2–D.
- No. 4.
- No. 5.
- No. 6.

Oil, misc.:
- Aliphatic.
- Aromatic.
- Clarified.
- Coal.
- Crude.
- Diesel.
- Gas, cracked.
- Gas, high pour.
- Gas, low pour.
- Gas, low sulfur (alternately sulphur).
- Heartcut distillate.
- Lubricating.
- Mineral.
- Mineral seal.
- Motor.
- Neatsfoot.
- Penetrating.
- Pine.

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Residual.
Road.
Rosin.
Spindle.
Transformer.
Turbine.
Vacuum gas oil.
Oxyalkylated alkyl phenol formaldehyde.
Petrolatum.
[ADD]
Petroleum wax.
[REVISE]
Polybutene.
[ADD]
Polyolefin (molecular weight 300+).
[REVISE]
Polyolefin amide alkeneamine (C17+).
Polyolefin amide alkeneamine (C28+).

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Polyolefin amide alkeneamine in mineral oil.
Polyolefinamine (C28–C250).
Sulfohydrocarbon (alternately Sulphohydrocarbon) (C3–C88).
Sulfurized (alternately Sulphurized) fat (C14–C20).
Sulfurized (alternately Sulphurized) polyolefinamide alkene (C28–C250) amine.
Waxes: Petroleum.
[ADD]
White spirit.
[REVISE]
White spirit (low (15–20%) aromatic).
34. ESTERS
[REVISE]
Alkenyl (C8+) amine, Alkenyl (C12+) acid ester mixture.
Alkyl dithiocarbamate (C19–C35).
Alkyl ester copolymer (C4–C20).
Alkyl ester copolymer in mineral oil.
Alkyl (C7–C9) nitrates.[1]
Alkyl (C8–C40) phenol sulfide (alternately sulphide).
Alkyl (C10–C20), (saturated and unsaturated) phosphite.
Alkyl sulfonic (alternately sulphonic) acid ester of phenol.
Alkyl (C18–C28) toluenesulfonic (alternately toluenesulphonic) acid, Calcium salts, borated.
Alkylaryl phosphate mixtures (more than 40% Diphenyl tolyl phosphate, less than 0.02% ortho-isomer).
Amyl acetate (all isomers).
Amyl acid phosphate.
Animal and Fish oils, n.o.s.:
Cod liver oil.
Lanolin.
Neatsfoot oil.
Pilchard oil.
Sperm oil.
Animal and Fish acid oils and distillates, n.o.s.:
Animal acid oil.
Fish acid oil.
Lard acid oil.
Mixed acid oil.
Mixed general acid oil.
Mixed hard acid oil.
Mixed soft acid oil.
Barium long-chain (C11–C50) alkaryl sulfonate (alternately sulphonate).
Barium long-chain alkyl (C8–C14) phenate sulfide (alternately sulphide).
Benzenetricarboxylic acid trioctyl ester.

* * * * * * *

[ADD]
Bis (2-ethylhexyl) terephthalate.
[REVISE]
Boronated calcium sulfonate (alternately sulphonate).

* * * * * * *

Butyl butyrate (all isomers).
n-Butyl formate.
n-Butyl propionate.

* * * * * * *

Calcium alkyl (C10–C28) salicylate.

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

[ADD]
Calcium alkyl (C9) phenol sulfide (alternately sulphide), polyolefin phosphorosulfide (alternately phosphorosulphide) mixture.
[REVISE]
Calcium carbonate slurry.
Calcium long-chain alkaryl sulfonate (alternately sulphonate) (C11–C50).
Calcium long-chain alkyl (C5–C10) phenate.
Calcium long-chain alkyl (C5–C20) phenate.
Calcium long-chain alkyl (C11–C40) phenate.
Calcium long-chain alkyl phenate sulfide (alternately sulphide) (C8–C40).
Calcium long-chain alkyl (C18–C28) salicylate.
Calcium nitrate solutions (50% or less).
Calcium nitrate/Magnesium nitrate/Potassium chloride solution.
Calcium salts of fatty acids.
Calcium stearate.
Cobalt naphthenate in solvent naphtha.
Copper salt of long-chain (C17+) alkanoic acid.
Copper salt of long-chain (C3–C16) fatty acid.
Cyclohexyl acetate.
Decyl acetate.
Dialkyl (C7–C13) phthalates:
- Di-(2-ethylhexyl) phthalate.
- Diheptyl phthalate.
- Dihexyl phthalate.
- Diisooctyl phthalate.
- Dioctyl phthalate.
- Diisodecyl phthalate.
- Diisononyl phthalate.
- Dinonyl phthalate.
- Ditridecyl phthalate.
- Diundecyl phthalate.

Dialkyl thiophosphates sodium salts solution.

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Dibutyl terephthalate.
Di-(2-ethylhexyl) adipate.
Di-(2-ethylhexyl) terephthalate.
Diethylene glycol dibenzoate.
Diethylene glycol phthalate.
Diethyl phthalate.
Diethyl sulfate (alternately sulphate).

* * * * * * *

Dimethyl hydrogen phosphite.[1]
Dimethyl naphthalene sulfonic (alternately sulphonic) acid, sodium salt solution.[1]

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Dimethylpolysiloxane.

* * * * * * *

Ditridecyl adipate.
2-Dodecenylsuccinic acid, dipotassium salt solution.
2-Ethoxyethyl acetate.

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S-Ethyl dipropylthiocarbamate.
Ethylene carbonate.

* * * * * * *

Ethylene glycol diacetate.
Ethylene glycol methyl ether acetate.

* * * * * * *

[ADD]
Ethyl hexyl tallate.
[REVISE]
2-Ethyl-2-(hydroxymethyl) propane-1,3-diol (C8–C10) ester.
[ADD]
Ethyl lactate.
Ethyl propionate.
Fatty acid methyl esters.
Fatty acids (C8–C10).
Fatty acids (C12+).
Fatty acids (saturated, C13+).
Fatty acids (C16+).

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Fatty acids, essentially linear (C6–C18) 2-ethylhexyl ester.
[REVISE]
Glyceryl triacetate.
Glycidyl ester of C10 trialkyl acetic acid.
[ADD]
Glycidyl ester of tertiary carboxylic acid.
[REVISE]
Glycidyl ester of tridecyl acetic acid.
[ADD]
Glycidyl ester of Versatic acid.
Glycol diacetate.
Glycol triacetate.
[REVISE]
Heptyl acetate.
[ADD]
Herbicide (C15–H22–NO2-Cl).
[REVISE]
Hexyl acetate.
[ADD]
Hog grease.

* * * * * * *

Lauric acid methyl ester/Myristic acid methyl ester mixture.

* * * * * * *

[REVISE]
Magnesium long-chain alkaryl sulfonate (alternately sulphonate) (C11–C50).
Magnesium long-chain alkyl phenate sulfide (alternately sulphide) (C8–C20).
Magnesium long-chain alkyl salicylate (C11+).
[ADD]
Magnesium nonyl phenol sulfide (alternately sulphide).
Magnesium sulfonate (alternately sulphonate).

* * * * * * *

[REVISE]
Methyl salicylate.
[ADD]
N-(2-Methoxy-1-methyl ethyl)-2-ethyl-6-methyl chloroacetanilide.
[REVISE]
Metolachlor.
Naphthalene sulfonic (alternately sulphonic) acid, sodium salt solution.

* * * * * * *

[ADD]
Nonyl phenol sulfide (90% or less) solution.

* * * * * * *

Octyl nitrate.
Octyl phthalate.
[REVISE]
Oil, edible:
- Beechnut.
- Castor.
- Cocoa butter.
- Coconut.
- Cod liver.
- Corn.
- Cotton seed.
- Fish.
- Grape seed.
- Groundnut.
- Hazelnut.
- Illipe.
- Lard.
- Maize.
- Mango kernel.
- Nutmeg butter.
- Olive.
- Palm.
- Palm kernel.
- Palm kernel olein.
- Palm kernel stearin.
- Palm mid fraction.
- Palm olein.

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Palm stearin.
Peanut.
Poppy.
Poppy seed.
Raisin seed.
Rapeseed.
Rapeseed, (low erucic acid containing less than 4% free fatty acids).
Rice bran.
Safflower.
Salad.
Sesame.
Shea butter.
Soyabean.
Sunflower.
Sunflower seed.
Tucum.
Vegetable.
Walnut.
Oil, misc.:
Acid mixture from soyabean, corn (maize) and sunflower oil refining.
Animal.
Camelina.
Cashew nut shell oil (untreated).
Coconut fatty acid.
Coconut, fatty acid methyl ester.
Cottonseed oil, fatty acid.
Lanolin.
Linseed.
Oiticica.
Palm acid.
Palm fatty acid distillate.
Palm oil, fatty acid methyl ester.
Palm kernel acid.
Palm kernel fatty acid distillate.
Palm, non-edible industrial grade.
Perilla.
Pilchard.
Rapeseed fatty acid methyl esters.
Seal.
Soapstock.
Soyabean (epoxidized).
Soyabean fatty acid methyl ester.
Tall.
Tall, crude.
Tall, distilled.
Tall, fatty acid.
Tall, fatty acid (resin acids less than 20%).
Tall pitch.
Tung.
n-Pentyl propionate.

* * * * * * *

Poly (2–8)alkylene glycol monoalkyl (C1–C6) ether acetate:
Diethylene glycol butyl ether acetate.
Diethylene glycol ethyl ether acetate.
Diethylene glycol methyl ether acetate.
[ADD]
Polycarboxylic ester (C9+).
[REVISE]
Polyferric sulfate (alternately sulphate) solution.
[ADD]
Polymerized esters.
[REVISE]
Polymethylsiloxane.
Polyolefin aminoester salts (molecular weight 2000+).
Polyolefin ester (C28–C250).
Polyolefin phosphorosulfide (alternately phosphorosulphide), barium derivative (C28–C250).
Poly(20)oxyethylene sorbitan monooleate.

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Polysiloxane/White spirit, low (15–20%) aromatic.
Potassium formate solutions.
Potassium oleate.
Potassium salt of polyolefin acid.

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

n-Propyl acetate.

* * * * * * *

Propylene glycol methyl ether acetate.
Siloxanes.
Sodium acetate solution.
Sodium acetate/Glycol/Water mixture (not containing Sodium hydroxide).
Sodium alkyl (C14–C17) sulfonates (alternately sulphonates) 60–65% solution.
[ADD]
Sodium aluminosilicate slurry.
[REVISE]
Sodium benzoate.
Sodium bicarbonate solution (less than 10%).
Sodium dimethyl naphthalene sulfonate (alternately sulphonate) solution.[2]
Sodium long-chain alkyl salicylate (C13+).
Sodium naphthalene sulfonate (alternately sulphonate) solution.
Sodium petroleum sulfonate (alternately sulphonate).
Sodium sulfate (alternately sulphate) solution.
Tall oil soap, crude.
Tallow.
Tallow fatty acid.

* * * * * * *

Tridecyl acetate.
Triethylene glycol di-(2-ethylbutyrate).
Triethylene glycol dibenzoate.
Triethyl phosphate.
Triethyl phosphite.[1]
Triisooctyl trimellitate.[1]
Triisopropylated phenyl phosphates.
Trimethyl phosphite.[1]
2,2,4-Trimethyl-1,3-pentanediol diisobutyrate.

* * * * * * *

2,2,4-Trimethyl-3-pentanol-1-isobutyrate.
Trisodium nitrilotriacetate solution.

* * * * * * *

Trixylenyl phosphate.
Vegetable acid oils, n.o.s.:
- Corn acid oil.
- Cottonseed acid oil.
- Dark mixed acid oil.
- Groundnut acid oil.
- Mixed acid oil.
- Mixed general acid oil.
- Mixed hard acid oil.
- Mixed soft acid oil.
- Rapeseed acid oil.
- Safflower acid oil.
- Soya acid oil.
- Sunflower seed acid oil.

Vegetable fatty acid distillates, n.o.s.:
- Palm kernel fatty acid distillate.
- Palm oil fatty acid distillate.
- Tall fatty acid distillate.
- Tall oil fatty acid distillate.

Vegetable oils, n.o.s.:
- Beechnut oil.
- Camelina oil.
- Cashew nut shell.
- Castor oil.
- Cocoa butter.
- Coconut oil.
- Corn oil.
- Cotton seed oil.
- Croton oil.
- Grape seed oil.
- Groundnut oil.
- Hazelnut oil.
- Illipe oil.
- Linseed oil.
- Mango kernel oil.
- Nutmeg butter.

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Oiticica oil.
Olive oil.
Palm kernel oil.
Palm kernel olein.
Palm kernel stearin.
Palm mid fraction.
Palm, non-edible industrial grade.
Palm oil.
Palm olein.
Palm stearin.
Peanut oil.
Peel oil (oranges and lemons).
Perilla oil.
Pine oil.
Poppy seed oil.
Poppy oil.
Raisin seed oil.
Rapeseed oil.
Rapeseed (low erucic acid containing less than 4% free fatty acids).
Rice bran oil.
Rosin oil.
Safflower oil.
Salad oil.
Sesame oil.
Shea butter.
Soyabean oil.
Sunflower seed oil.
Tall.
Tall, crude.
Tall, distilled.
Tall, pitch.
Tucum oil.
Tung oil.
Walnut oil.
Waxes:
Candelilla.
Carnauba.

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36. HALOGENATED HYDROCARBONS

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[REVISE]
Carbon tetrachloride.[1]
Catoxid feedstock.[1]

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Chlorinated paraffins (C14–C17) (with 52% Chlorine).
Chlorinated paraffins (C18+) with any level of Chlorine.

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Dibromomethane.
Dichlorobenzene (all isomers).
3,4-Dichloro-1-butene.
Dichlorodifluoromethane.

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Dichloropropane.
[ADD]
1,1-Dichloropropane.
1,2-Dichloropropane.
1,3-Dichloropropane.

* * * * * * *

[REVISE]
Ethylene dichloride.[1]

* * * * * * *

[ADD]
Methylene chloride.
[REVISE]
Monochlorodifluoromethane.
Pentachloroethane.
Perchloroethylene.

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

n-Propyl chloride.
[ADD]
Sym-trichlorobenzene.
Tetrachloroethane.

* * * * * * *

1,2,3-Trichlorobenzol.
[REVISE]
1,1,1-Trichloroethane.[1]

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Trichloroethylene.[1]
1,1,2-Trichloro-1,2,2-trifluoroethane.
1,2,3-Trichloropropane.
37. NITRILES

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[REVISE]
Tallow alkyl nitrile.
38. CARBON DISULFIDE (ALTERNATELY DISULPHIDE)
[REVISE]
Carbon disulfide (alternately disulphide).
39. SULFOLANE (ALTERNATELY SULPHOLANE)
[REVISE]
Sulfolane (alternately Sulpholane).
40. GLYCOL ETHERS
[REVISE]
Alkyl (C7–C11) phenol poly(4–12) ethoxylates.
Alkyl (C9–C15) phenyl propoxylate.
Diethylene glycol.[1]
Diethylene glycol dibutyl ether.
Diethylene glycol diethyl ether.
Diethylene glycol phenyl ether.
Dipropylene glycol.
[ADD]
2-Ethoxyethanol.

* * * * * * *

Ethoxy triglycol (crude).
[REVISE]
Ethylene glycol dibutyl ether.
Ethylene glycol monoalkyl ethers:
- Ethylene glycol butyl ether.
- Ethylene glycol tert-butyl ether.
- Ethylene glycol ethyl ether.
- Ethylene glycol hexyl ether.
- Ethylene glycol isopropyl ether.
- Ethylene glycol methyl butyl ether.
- Ethylene glycol methyl ether.
- Ethylene glycol propyl ether.
- Ethylene glycol n-propyl ether.

Ethylene glycol phenyl ether.
Ethylene glycol phenyl ether/Diethylene glycol phenyl ether mixture.
Glucitol/glycerol blend propoxylated (containing less than 10% amines).
Glycerol, ethoxylated.
[ADD]
Glycerol polyalkoxylate.

* * * * * * *

[REVISE]
Nonyl phenol poly(4+)ethoxylates.
Pentaethylene glycol methyl ether.
Polyalkylene glycols/Polyalkylene glycol monoalkyl ethers mixtures.
Poly(2–8)alkylene glycol monoalkyl (C1–C6) ethers:
- Diethylene glycol butyl ether.
- Diethylene glycol ethyl ether.
- Diethylene glycol n-hexyl ether.
- Diethylene glycol methyl ether.
- Diethylene glycol propyl ether.
- Dipropylene glycol butyl ether.
- Dipropylene glycol methyl ether.
- Polyalkylene glycol butyl ether.
- Polyethylene glycol monoalkyl ether.
- Polypropylene glycol methyl ether.

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Tetraethylene glycol methyl ether.
Triethylene glycol butyl ether.
Triethylene glycol ethyl ether.
Triethylene glycol methyl ether.
Tripropylene glycol methyl ether.
Polyethylene glycol.

* * * * * * *

Poly (ethylene glycol) methylbutenyl ether (molecular weight >1000).
Polypropylene glycol.
Poly (tetramethylene ether) glycols (molecular weight 950–1050).
Polytetramethylene ether glycol.
Propylene glycol monoalkyl ethers:
n-Propoxypropanol.
Propylene glycol n-butyl ether.
Propylene glycol ethyl ether.
Propylene glycol methyl ether.
Propylene glycol propyl ether.
Propylene glycol phenyl ether.
Tetraethylene glycol.
Triethylene glycol.
Triethylene glycol butyl ether mixture.
Triethylene glycol ether mixture.
Tripropylene glycol.

41. ETHERS

[REVISE]

Alcohol (C12–C13, branched and linear) poly (4–8) propoxy sulfates (alternately sulphates), sodium salt 25–30% solution.
Alkaryl polyethers (C9–C20).

* * * * * * *

n-Butyl ether.
Dichloroethyl ether.
2,2′-Dichloroisopropyl ether.

[ADD]

Diethyl ether.
Dimethyl ether.

* * * * * * *

[REVISE]

Diphenyl ether/Diphenyl phenyl ether mixture.
Ethyl tert-butyl ether.[1]

* * * * * * *

Methyl-tert-butyl ether.[1]

* * * * * * *

Methyl tert-pentyl ether.
Polyether, borated.
Polyether (molecular weight 1350+).
Polyether polyols.
Poly(oxyalkylene) alkenyl ether (molecular weight >1000).

* * * * * * *

1,3,5-Trioxane.

42. NITROCOMPOUNDS

* * * * * * *

[REVISE]

Dinitrotoluene (molten).
Nitrobenzene.

[ADD]

o-Nitrochlorobenzene.

* * * * * * *

[REVISE]

Nitroethane/1-Nitropropane (each 15% or more) mixture.
Nitrophenol (mixed isomers).
Nitropropane (60%)/Nitroethane (40%) mixtures.

[ADD]

1- or 2-Nitropropane.

[REVISE]

o- or p-Nitrotoluenes.

43. MISCELLANEOUS WATER SOLUTIONS

[REVISE]

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Alkyl (C8–C10) polyglucoside solution (65% or less).
Alkyl (C8–C10)/(C12–C14):(40% or less/60% or more) polyglucoside solution (55% or less).

* * * * * * *

Alkyl (C8–C10)/(C12–C14):(60% or more/40% or less) polyglucoside solution (55% or less).
Alkyl (C12–C14) polyglucoside solution (55% or less).
Aluminum sulfate (alternately Aluminium sulphate) solution.[1]

* * * * * * *

Ammonium bisulfite (alternately bisulphite) solution (70% or less).[1]
Ammonium chloride solution (less than 25%).

* * * * * * *

Ammonium sulfate (alternately sulphate) solution.
[ADD]
Ammonium sulfate (alternately sulphate) solution (20% or less).
[REVISE]
Ammonium thiosulfate (alternately thiosulphate) solution (60% or less).
[ADD]
Apple juice.

* * * * * * *

Cesium formate solution.

* * * * * * *

[REVISE]
2,4-Dichlorophenoxyacetic acid, Triisopropanolamine salt solution.[1]
Diethylenetriaminepentaacetic acid, pentasodium salt solution.
Dodecyl diphenyl ether disulfonate (alternately disulphonate) solution.
Drilling brines (containing Calcium, Potassium, or Sodium salts).
Drilling brines (containing Zinc salts).
Drilling brines, including: Calcium bromide solution, Calcium chloride solution, and Sodium chloride solution.
Drilling mud (low toxicity) (if non-flammable or non-combustible).
Ethylenediaminetetracetic acid/tetrasodium salt solution.
Ethylene-Vinyl acetate copolymer (emulsion).
Ferric hydroxyethylethylenediaminetriacetic acid, trisodium salt solution.[1]
Fish solubles (water-based fish meal extracts).

* * * * * * *

[ADD]
Glucose solution.
Hexamethylenediamine adipate (50% in water).

* * * * * * *

[REVISE]
N-(Hydroxyethyl)ethylenediamine triacetic acid, trisodium salt solution.
[ADD]
Kaolin clay solution.
[REVISE]
Kaolin slurry.
Latex, liquid synthetic.
Latex: Carboxylated Styrene-Butadiene copolymer; Styrene-butadiene rubber.
[ADD]
Lauryl polyglucose.
Lauryl polyglucose (50% or less).

* * * * * * *

[REVISE]
Ligninsulfonic (alternately Ligninsulphonic) acid, magnesium salt solution.
[ADD]
Ligninsulfonic (alternately Ligninsulphonic) acid, sodium salt solution.

* * * * * * *

[ADD]
Microsilica slurry.
Milk.

* * * * * * *

Pentasodium salt of Diethylenetriaminepentaacetic acid solution.
Phenol solutions (2% or less).

* * * * * * *

Potassium chloride solution (10% or more).
[REVISE]

TABLE 2 TO PART 150—GROUPING OF CARGOES—Continued

Potassium thiosulfate (alternately thiosulphate) (50% or less).

* * * * * * *

Sewage sludge.
[ADD]
Silica slurry.
Sludge, treated.

* * * * * * *

[REVISE]
Sodium hydrogen sulfite (alternately sulphite) solution (45% or less).
Sodium lignosulfonate (alternately lignosulphonate) solution.
[ADD]
Sodium naphthalene sulfonate solution (40% or less), see Naphthalene sulphonic acid, sodium salt solution (40% or less).
Sodium naphthenate solution, see Naphthenic acid, sodium salt solution.
Sodium poly(4+)acrylate solution.
[REVISE]
Sodium polyacrylate solution.[1]
Sodium salt of Ferric hydroxyethylethylenediaminetriacetic acid solution.
Sodium silicate solution.[1]
Sodium sulfide (alternately sulphide) solution (15% or less).
Sodium sulfite (alternately sulphite) solution (25% or less).
Sodium tartrates/Sodium succinates solution.
Sulfonated (alternately Sulphonated) polyacrylate solution.[1]

* * * * * * *

Tetrasodium salt of ethylenediaminetetraacetic acid solution.

* * * * * * *

[ADD]
Trisodium salt of N-(Hydroxyethyl)ethylenediaminetriacetic acid solution.
[REVISE]
Urea solution.
Urea/Ammonium nitrate solution (containing less than 1% free Ammonia).
Urea/Ammonium phosphate solution.
Vegetable protein solution (hydrolyzed).
Water.

Note:
[1] See Appendix I to 46 CFR part 150 (Exceptions to the Chart).

■ 9. Amend Appendix I to Part 150 by revising the table in paragraph (a) and revising paragraph (b) to read as follows:

Appendix I to Part 150—Exceptions to the Chart

(a) * * *

Member of reactive group	Compatible with
Acetone (18)	Diethylenetriamine (7).
Acetone cyanohydrin (0)	Acetic acid (4).
	Acrylates (14).
	Alcohols, Glycols (20).
	Aldehydes (19).
	Aromatic Hydrocarbon Mixtures (32).
	Carbon Disulfide (alternately Disulphide) (38).
	Esters (34).
	Ethers (41).
	Glycol Ethers (40).
	Halogenated Hydrocarbons (36).
	Ketones (18).
	Miscellaneous Hydrocarbon Mixtures (33).
	Nitriles (37).
	Nitrocompounds (42).
	Olefins (30).
	Paraffins (31).
	Phenols, Cresols (21).
	Substituted Allyls (15).
	Sulfolane (alternately Sulpholane) (39).
	Vinyl Acetate (13).
	Vinyl Halides (35).
Acrylonitrile (15)	Triethanolamine (8).
1,3-Butylene glycol (20)	Morpholine (7).
1,4-Butylene glycol (20)	Ethylamine (7).
	Triethanolamine (8).

Member of reactive group	Compatible with
gamma-Butyrolactone (0)	N-Methyl-2-pyrrolidone (9).
Caustic potash, 50% or less (5)	Bio-fuel blends of Gasoline and Ethyl alcohol (>25% but <99% by volume) (20).
	n-Butyl alcohol (20).
	Cetyl alcohol (Hexadecanol) (20).
	Ethyl alcohol (20).
	Ethylene glycol (20).
	Isobutyl alcohol (20).
	Isooctyl alcohol (20).
	Isopropyl alcohol (20).
	Methyl alcohol (20).
	Propylene glycol (20).
Caustic soda, 50% or less (5)	Acrylonitrile/Styrene copolymer dispersion in Polyether polyol (20).
	Alcohol (C12–C16) poly(1–6)ethoxylates (20).
	Bio-fuel blends of Gasoline and Ethyl alcohol (>25% but <99% by volume) (20).
	Butyl alcohol (20).
	tert-Butyl alcohol, Methanol mixtures (20).
	Cetyl alcohol (Hexadecanol) (20).
	Decyl alcohol (20).
	Diacetone alcohol (20).
	Diethylene glycol (40).
	Dodecyl alcohol (20).
	Ethyl alcohol (20).
	Ethyl alcohol (40% whiskey) (20).
	Ethylene glycol (20).
	Ethylene glycol, Diethylene glycol mixture (20).
	Ethyl hexanol (Octyl alcohol) (20).
	Isobutyl alcohol (20).
	Isodecyl alcohol (20).
	Isononyl alcohol (20).
	Isopropyl alcohol (20).
	Isotridecanol (20).
	Methyl alcohol (20).
	Nonyl alcohol (20).
	Propyl alcohol (20).
	Propylene glycol (20).
	Sodium chlorate solution (0).
Dimethyl disulfide (0)	Acrylates (14).
	Alcohols, Glycols (20).
	Aromatic Hydrocarbon Mixtures (32).
	Esters (34).
	Halogenated Hydrocarbons (36).
	Ketones (18).
	Methyl tert-butyl ether (41).
	Olefins (30).
	Organic Acids (4).
	Organic Anhydrides (11).
	Paraffins (31).
	Phenols, Cresols (21).
Diphenylmethane diisocyanate (12)	2,2-Dimethylpropane-1,3-diol (20).
	Polypropylene glycol (40).
tert-Dodecanethiol (20)	Caustic soda solution (50%) (5).
	Isopropylamine solution (70%) (7).
	Polymethylene polyphenyl isocyanate (12).
	Toluene diisocyanate (12).
Dodecyl and Tetradecylamine mixture (7)	Tall oil, fatty acid (34).
Ethylenediamine (7)	Bio-fuel blends of Gasoline and Ethyl alcohol (>25% but <99% by volume) (20).
	Butyl alcohol (20).
	tert-Butyl alcohol (20).
	Butylene glycol (20).
	Creosote (21).
	Diethylene glycol (40).
	Diisobutyl ketone (18).
	Ethyl alcohol (20).
	Ethylene glycol (20).
	Ethyl hexanol (20).
	Fatty alcohols (C12–C14).
	Glycerine (20).
	Isononyl alcohol (20).
	Isophorone (18).
	Methyl butyl ketone (18).
	Methyl ethyl ketone (18).

Member of reactive group	Compatible with
	Methyl isobutyl ketone (18).
	Propyl alcohol (20).
	Propylene glycol (20).
Lactic acid (0)	Acetic acid (4).
	Benzene (32).
	Ethanol (20).
	Polypropylene glycol (40).
	Vinyl acetate (13).
Oleum (0)	Hexane (31).
	Dichloromethane (36).
	Perchloroethylene (36).
1,2-Propylene glycol (20)	Diethylenetriamine (7).
	Polyethylene polyamines (7).
	Triethylenetetramine (7).
Sodium cresylate as Cresylate spent caustic (5)	Methyl alcohol (20).
Sodium dichromate solution (70% or less) (0)	Acetone (18).
	n-Butyl alcohol (20).
	Ethyl acetate (34).
	1-Hexene (30).
	Methyl alcohol (20).
	Octene (all isomers) (30).
	Phosphoric acid (1).
Sodium hydrosulfide (alternately hydrosulphide) solution (45% or less) (5).	Isopropyl alcohol (20).
	Methyl alcohol (20).
Sodium Methylate 21–30% in methanol (0)	1,2-Dichloropropane (36).
	Chlorobenzene (36).
	Cyclohexanone (18).
	Cyclohexanone, Cyclohexanol mixtures (18).
	Diethanolamine (8).
	Diisononyl phthalate (34).
	Dimethylformamide (10).
	Ethyl alcohol (20).
	Ethylene glycol (20).
	Furfuryl alcohol (20).
	Heptene (all isomers) (30).
	Isobutyl alcohol (20).
	Isopropyl alcohol (20).
	Lubricating oil (33).
	Methyl ethyl ketone (18).
	Nonene (all isomers) (30).
	Nonyl alcohol (all isomers) (20).
	Octene (all isomers) (30).
	Perchloroethylene (36).
	Polyisobutenamine in aliphatic (C10–C14) solvent (7).
	o-Toluidine (9).
	Xylene (32).
Sulfuric (alternately Sulphuric) acid (2)	Coconut oil (34).
	Coconut oil, fatty acid (34).
	Palm oil (34).
	Soyabean oil (34).
	Tallow (34).
Sulfuric (alternately Sulphuric) acid, 98% or less (2)	Choice white grease tallow (34).
Urea/Ammonium Nitrate solution (containing less than 1% free Ammonia) (43).	Magnesium chloride solutions (0).

(b) The binary combinations listed below have been determined to be dangerously reactive, based either on data obtained in the literature or on laboratory testing that has been carried out in accordance with procedures prescribed in Appendix III. These combinations are exceptions to Figure 1 of part 150 (Compatibility Chart) and may not be stowed in adjacent tanks.

Acetone cyanohydrin (0) is not compatible with Groups 1–12, 16, 17 or 22.

Acrolein (19) is not compatible with Group 1, Non-Oxidizing Mineral Acids.

Acrylic acid (4) is not compatible with Group 9, Aromatic Amines.

Acrylonitrile (15) is not compatible with Group 5, Caustics.

Alkyl (C7–C9) nitrates (34) is not compatible with Group 1, Non-Oxidizing Mineral Acids.

Alkylbenzene sulfonic (alternately sulphonic) acid (less than 4%) (0) is not compatible with Groups 1–3, 5–9, 15, 16, 18, 19, 30, 34, 37, or strong oxidizers.

Allyl alcohol (15) is not compatible with Group 12, Isocyanates.

Aluminum sulfate (alternately Aluminium sulphate) solution (43) is not compatible with Groups 5–11.

Ammonium bisulfite (alternately bisulphite) solution (70% or less) (43) is not compatible with Groups 1 or 3–5.

Benzenesulfonyl (alternately Benzenesulphonyl) chloride (0) is not compatible with Groups 5–7, or 43.

Butylene glycol (20) is not compatible with Caustic soda solution (5).

gamma-Butyrolactone (0) is not compatible with Groups 1–9.

C9 Resinfeed (DSM) (32) is not compatible with Group 2, Sulfuric (alternately Sulphuric) Acids.

Carbon tetrachloride (36) is not compatible with Tetraethylenepentamine or Triethylenetetramine, both Group 7, Aliphatic Amines.

Catoxid feedstock (36) is not compatible with Groups 1–5, or 12.

Caustic soda solution (5) is not compatible with Butylene glycol (20).

1-(4-Chlorophenyl)-4,4-dimethyl pentan-3-one (18) is not compatible with Group 5, Caustics, or Group 10, Amides.

Crotonaldehyde (19) is not compatible with Group 1, Non-Oxidizing Mineral Acids.

Cyclohexanone/Cyclohexanol mixture (18) is not compatible with Group 12, Isocyanates.

2,4-Dichlorophenoxyacetic acid, Dimethylamine salt solution (70% or less) (0) is not compatible with Groups 1–5, 11, 12, or 16.

2,4-Dichlorophenoxyacetic acid, Triisopropanolamine salt solution (43) is not compatible with Group 3, Nitric Acids.

Diethylenetriamine (7) is not compatible with 1,2,3-Trichloropropane, Group 36, Halogenated Hydrocarbons.

Dimethyl hydrogen phosphite (34) is not compatible with Groups 1 or 4.

Dimethyl naphthalene sulfonic (alternately sulphonic) acid, sodium salt solution (34) is not compatible with Group 12, or Formaldehyde, or with strong oxidizing agents.

Dodecylbenzenesulfonic (alternately Dodecylbenzenesulphonic) acid (0) is not compatible with oxidizing agents or Groups 1–3, 5–9, 15, 16, 18, 19, 30, 34, or 37.

Ethyl tert-butyl ether (41) is not compatible with Group 1, Non-Oxidizing Mineral Acids.

Ethylenediamine (7) and Ethyleneamine EA 1302 (7) are not compatible with either Ethylene dichloride (36) or 1,2,3-Trichloropropane (36).

Ethylene dichloride (36) is not compatible with Ethylenediamine (7) or Ethyleneamine EA 1302 (7).

Ethylidene norbornene (30) is not compatible with Groups 1–3 or 5–8.

2-Ethyl-3-propylacrolein (19) is not compatible with Group 1, Non-Oxidizing Mineral Acids.

Fatty acids, essentially linear (C6–C18) 2-ethylhexyl ester (34) is not compatible with Group 3, Nitric Acids.

Ferric hydroxyethylethylenediamine triacetic acid, Triodium salt solution (43) is not compatible with Group 3, Nitric Acids.

Fish oil (34) is not compatible with Sulfuric (alternately Sulphuric) acid (2).

Formaldehyde (50% or more) in Methyl alcohol (over 30%) (19) is not compatible with Group 12, Isocyanates.

Formic acid (4) is not compatible with Furfuryl alcohol (20).

Furfuryl alcohol (20) is not compatible with Group 1, Non-Oxidizing Mineral Acids, or with Formic acid (4).

1,6-Hexanediol distillation overheads (4) is not compatible with Group 3, Nitric Acids, or Group 9, Aromatic Amines.

2-Hydroxyethyl acrylate (14) is not compatible with Groups 5, 6, or 12.

Isophorone (18) is not compatible with Group 8, Alkanolamines.

Lactic acid (0) is not compatible with Caustic soda solution (5).

Magnesium chloride solution (0) is not compatible with Groups 2, 3, 5, 6, or 12.

Mesityl oxide (18) is not compatible with Group 8, Alkanolamines.

Methacrylonitrile (15) is not compatible with Group 5, Caustics.

Methyl tert-butyl ether (41) is not compatible with Group 1, Non-Oxidizing Mineral Acids.

Nitroethane/1-Nitropropane (each 15% or more) mixture (42) is not compatible with Group 7, Aliphatic Amines; Group 8, Alkanolamines; or Group 9, Aromatic Amines.

o-Nitrophenol (0) is not compatible with Groups 2, 3, or 5–10.

Nitropropane (60%)/Nitroethane (40%) mixture (42) is not compatible with Group 7, Aliphatic Amines; Group 8, Alkanolamines; or Group 9, Aromatic Amines.

Oleum (0) is not compatible with Sulfuric (alternately Sulphuric) acid (2) or 1,1,1-Trichloroethane (36).

Phthalate-based polyester polyol (0) is not compatible with Groups 2, 3, 5, 7, or 12.

Polyglycerine, Sodium salts solution (containing less than 3% sodium hydroxide) (20) is not compatible with Groups 1, 4, 11, 16, 17, 19, 21, or 22.

Propylene, Propane, MAPP gas mixture (containing 12% or less MAPP gas) (30) is not compatible with Group 1, Non-Oxidizing Mineral Acids, Group 36, Halogenated Hydrocarbons, or with nitrogen dioxide, oxidizing agents, or molten sulfur (alternately sulphur) (0).

Sodium acetate, Glycol, Water mixture (containing 1% or less Sodium hydroxide) (5) is not compatible with Group 12, Isocyanates.

Sodium chlorate solution (50% or less) (0) is not compatible with Groups 1–3, 5, 7, 8, 10, 12, 13, 17, or 20.

Sodium dichromate solution (70% or less) (0) is not compatible with Groups 1–3, 5, 7, 8, 10, 12, 13, 17, or 20.

Sodium dimethyl naphthalene sulfonate solution (34) is not compatible with Group 12, or Formaldehyde, or strong oxidizing agents.

Sodium hydrogen sulfide (alternately sulphide) (6% or less)/Sodium carbonate solution (3% or less) (0) is not compatible with Group 6, Ammonia, or Group 7, Aliphatic Amines.

Sodium hydrosulfide (alternately hydrosulphide) solution (45% or less) (5) is not compatible with Group 6, Ammonia, or Group 7, Aliphatic Amines.

Sodium hydrosulfide (alternately hydrosulphide), Ammonium sulfide (alternately sulphide) solution (5) is not compatible with Group 6, Ammonia, or Group 7, Aliphatic Amines.

Sodium polyacrylate solution (43) is not compatible with Group 3, Nitric Acids.

Sodium silicate solution (43) is not compatible with Group 3, Nitric Acids.

Sodium sulfide, hydrosulfide (alternately sulphide, hydrosulphide) solution (0) is not compatible with Group 6, Ammonia, or Group 7, Aliphatic Amines.

Sodium thiocyanate (56% or less) (0) is not compatible with Groups 1–4.

Sulfonated (alternately Sulphonated) polyacrylate solution (43) is not compatible with Group 5, Caustics.

Sulfuric (alternately Sulphuric) acid (2) is not compatible with Fish oil (34), or Oleum (0).

Tall oil fatty acid (Resin acids less than 20%) (34) is not compatible with Group 5, Caustics.

Tallow fatty acid (34) is not compatible with Group 5, Caustics.

Tetraethylenepentamine (7) is not compatible with Carbon tetrachloride, Group 36, Halogenated Hydrocarbons.

1,1,1-Trichloroethane (36) is not compatible with Oleum (0).

Trichloroethylene (36) is not compatible with Group 5, Caustics.

1,2,3-Trichloropropane (36) is not compatible with Diethylenetriamine, Ethylenediamine, Ethyleaneamine EA 1302, or Triethylenetetramine, all Group 7, Aliphatic Amines.

Triethylenetetramine (7) is not compatible with Carbon tetrachloride, or 1,2,3-Trichloropropane, both Group 36, Halogenated Hydrocarbons.

Triethyl phosphite (34) is not compatible with Group 1, Non-Oxidizing Mineral Acids, or Group 4, Organic Acids.

Trimethyl phosphite (34) is not compatible with Group 1, Non-Oxidizing Mineral Acids, or Group 4, Organic Acids.

1,3,5-Trioxane (41) is not compatible with Group 1, Non-Oxidizing Mineral Acids, or Group 4, Organic Acids.

Vinyl neodecanoate (13) is not compatible with Group 5, Caustics.

PART 153—SHIPS CARRYING BULK LIQUID, LIQUEFIED GAS, OR COMPRESSED GAS HAZARDOUS MATERIALS

■ 10. The authority citation for part 153 continues to read as follows:

Authority: 46 U.S.C. 3703; Department of Homeland Security Delegation No. 0170.1. Section 153.40 issued under 49 U.S.C. 5103. Sections 153.470 through 153.491, 153.1100 through 153.1132, and 153.1600 through 153.1608 also issued under 33 U.S.C. 1903(b).

■ 11. Amend Table 2 to Part 153 by revising the introductory text, the entries marked ''[REVISE]'', and the notes at the end of the table to read as follows:

Table 2 to Part 153—Cargoes Not Regulated Under Subchapters D or O of This Chapter When Carried in Bulk on Non-Oceangoing Barges

The cargoes listed in this table are not regulated under subchapter D or O of this title when carried in bulk on non-oceangoing barges. Category X, Y, or Z noxious liquid substance (NLS) cargo, as defined in Annex II of MARPOL 73/78, listed in this table, or any mixture containing one or more of these cargoes, must be carried under this subchapter if carried in bulk on an oceangoing ship.

Cargoes	Pollution category
[REVISE]	
Acrylic acid/ethenesulfonic (alternately ethenesulphonic) acid copolymer with phosphonate groups, sodium salt solution	**Z**
Aluminum sulfate (alternately Aluminium sulphate) solution	Y
* * * * * * *	
Ammonium lignosulfonate (alternately lignosulphonate) solutions, *see also* Lignin liquor	Z
* * * * * * *	
Ammonium phosphate, urea solution, *see also* Urea/Ammonium phosphate solution	#
* * * * * * *	
Ammonium sulfate (alternately sulphate) solution	Z
Ammonium thiosulfate (alternately thiosulphate) solution (60% or less)	Z
* * * * * * *	
Calcium lignosulfonate (alternately lignosulphonate) solution, *see also* Lignin liquor	Z
Calcium nitrate solutions (50% or less)	**Z**
* * * * * * *	
Chlorinated paraffins (C14–C17) (with 50% Chlorine or more, and less than 1% C13 or shorter chains)	**X**
* * * * * * *	
4-Chloro-2-methylphenoxyacetic acid, dimethylamine salt solution	Y
* * * * * * *	
Dextrose solution, see Glucose solution.	
Diethylenetriaminepentaacetic acid, pentasodium salt solution	Z
* * * * * * *	
Fish solubles (water-based fish meal extracts)	#
* * * * * * *	
Glyphosate solution (not containing surfactant)	Y
* * * * * * *	
Lignin liquor (free alkali content, 1% or less)	Z
including:	
Ammonium lignosulfonate (alternately lignosulphonate) solution	Z
Calcium lignosulfonate (alternately lignosulphonate) solution	Z
Sodium lignosulfonate (alternately lignosulphonate) solution	Z
Ligninsulfonic (alternately ligninsulphonic) acid, Sodium salt solution	Z
* * * * * * *	
Magnesium sulfonate (alternately sulphonate) solution	#
Maltitol solution	**OS**
Microsilica slurry	**OS**
* * * * * * *	
Naphthalenesulfonic (alternately Naphthalenesulphonic) acid-Formaldehyde copolymer, sodium salt solution	Z
* * * * * * *	
Nitrilotriacetic acid, trisodium salt solution	**Y**
Noxious liquid, NF, (1) n.o.s. (''trade name'' contains ''principal components'') ST 1, Cat X (if non-flammable and non-combustible)	X
Noxious liquid, NF, (3) n.o.s. (''trade name'' contains ''principal components'') ST 2, Cat X (if non-flammable and non-combustible)	X

Cargoes	Pollution category
Noxious liquid, NF, (5) n.o.s. (''trade name'' contains ''principal components'') ST 2, Cat Y (if non-flammable and non-combustible)	Y
Noxious liquid, NF, (7) n.o.s. (''trade name'' contains ''principal components'') ST 3, Cat Y (if non-flammable and non-combustible)	Y
Noxious liquid, NF, (9) n.o.s. (''trade name'' contains ''principal components'') ST 3, Cat Z (if non-flammable and non-combustible)	Z
Noxious liquid, NF, (11) n.o.s. (''trade name'' contains ''principal components'') Cat Z (if non-flammable and non-combustible)	Z
Noxious liquid, NF, (12) n.o.s. (''trade name'' contains ''principal components'') Cat OS (if non-flammable and non-combustible)	OS
Orange juice (concentrated)	**OS**
Orange juice (not concentrated)	**OS**
Pentasodium salt of Diethylenetriaminepentaacetic acid solution, see Diethylenetriaminepentaacetic acid, pentasodium salt solution.	
Polyaluminum (alternately Polyaluminium) chloride solution	Z
Potassium chloride solution (26% or more), see Drilling brines, including: Calcium bromide solution, Calcium chloride solution, and Sodium chloride solution.	
Potassium chloride solution (less than 26%)	**OS**
Potassium formate solutions	Z
Potassium thiosulfate (alternately thiosulphate) (50% or less)	**Y**
* * * * * * *	
Sodium alkyl (C14–C17) sulfonates (alternately sulphonates) (60–65% solution)	Y
* * * * * * *	
Sodium bicarbonate solution (less than 10%)	**OS**
* * * * * * *	
Sodium hydrogen sulfide (alternately sulphide) (6% or less)/Sodium carbonate (3% or less) solution	**Z**
Sodium lignosulfonate (alternately lignosulphonate) solution, *see also* Lignin liquor	Z
Sodium naphthenate solution (free alkali content 3% or less), see Naphthenic acid, sodium salt solution.	
Sodium poly(4+)acrylate solutions	Z
* * * * * * *	
Sodium sulfate (alternately sulphate) solutions	Z
Sodium sulfite (alternately sulphite) solution (25% or less)	**Y**
Sodium thiocyanate solution (56% or less)	**Y**
* * * * * * *	
Sulfonated (alternately Sulphonated) polyacrylate solution	Z
Tetrasodium salt of Ethylenediaminetetraaacetic acid solution, see Ethylenediaminetetraacetic acid, tetrasodium salt solution.	
* * * * * * *	
Trisodium salt of N-(Hydroxyethyl)ethylenediaminetriacetic acid solution, see N-(Hydroxyethyl)ethylenediaminetriacetic acid, trisodium salt solution.	
* * * * * * *	
Urea/Ammonium phosphate solution	Z
* * * * * * *	
Vanillin black liquor (free alkali content, 1% or less)	#
Vegetable protein solution (hydrolyzed) (if non-flammable and non-combustible)	OS
* * * * * * *	
Zinc bromide, Calcium bromide solution, see Drilling brines (containing Zinc salts).	

Explanation of symbols and abbreviations used in this table:

''#'' = No determination of noxious liquid substance status. For shipping on an oceangoing vessel, see 46 CFR 153.900(c).

Bolded entries were added from the March 2012 Annex to the 2007 edition of the IBC Code (MEPC 63/23/Add.1), the December 2012 IMO Marine Environmental Protection Committee Circular (MEPC.2/Circ.18), or the December 2013 IMO Marine Environmental Protection Committee Circular (MEPC.2/Circ.19).

''Cat'' = Pollution category.

''NF'' = Non-flammable (flash point greater than 60 °C (140 °F) closed cup).

''n.o.s.'' = Not otherwise specified.

''OS'' = Other substances, at present considered to present no harm to marine resources, human health, amenities, or other legitimate uses of the sea when discharged into the sea from tank cleaning or deballasting operations.

''see'' = A redirection to the preferred, alternative cargo name–for example, in ''*Tetrasodium salt of Ethylenediaminetetraaacetic acid solution, see* Ethylenediaminetetraacetic acid, tetrasodium salt solution,'' the pollution category for ''Tetrasodium salt of Ethylenediaminetetraaacetic acid solution'' will be found under the preferred, alternative cargo name ''Ethylenediaminetetraacetic acid, tetrasodium salt solution.''

''ST'' = Ship type, as defined in Chapter 2 of the IBC Code.

''X, Y, Z'' = Noxious liquid substance category of Annex II of MARPOL 73/78.

Dated: December 17, 2019.

R.V. Timme,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention Policy.

Editorial note: This document was received at the Office of the Federal Register on December 18, 2019.

[FR Doc. 2019–27628 Filed 4–16–20; 8:45 am]

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FEDERAL REGISTER

Vol. 85 Friday,

No. 75 April 17, 2020

Part V

The President

Executive Order 13915—Providing an Order of Succession Within the Department of the Interior

Memorandum of April 10, 2020—Authorizing the Exercise of Authority Under Public Law 85–804

Memorandum of April 13, 2020—Providing Federal Support for Governors' Use of the National Guard To Respond to COVID–19

Federal Register
Vol. 85, No. 75
Friday, April 17, 2020

Presidential Documents

Title 3—

The President

Executive Order 13915 of April 14, 2020

Providing an Order of Succession Within the Department of the Interior

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.,* it is hereby ordered that:

Section 1. Subject to the provisions of section 3 of this order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of the Interior (Secretary) during any period when both the Secretary and the Deputy Secretary of the Interior have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.* (a) Solicitor of the Department of the Interior;

(b) Assistant Secretary of the Interior in charge of Policy, Management, and Budget;

(c) Assistant Secretary of the Interior in charge of Land and Minerals Management;

(d) Assistant Secretary of the Interior in charge of Water and Science;

(e) Assistant Secretary of the Interior for Fish and Wildlife;

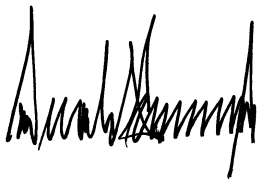
(f) Assistant Secretary of the Interior in charge of Indian Affairs; and

(g) Assistant Secretary of the Interior in charge of Insular and International Affairs.

Sec. 3. *Exceptions.* (a) No individual who is serving in an office listed in section 2 of this order in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, to depart from this order in designating an acting Secretary.

Sec. 4. *Revocation of Executive Order.* Executive Order 13244 of December 18, 2001 (Providing an Order of Succession Within the Department of the Interior), is hereby revoked.



THE WHITE HOUSE,
April 14, 2020.

[FR Doc. 2020–08392
Filed 4–16–20; 11:15 am]
Billing code 3295–F0–P

Presidential Documents

Memorandum of April 10, 2020

Authorizing the Exercise of Authority Under Public Law 85–804

Memorandum for the Secretary of Veterans Affairs

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

Section 1. On March 13, 2020, I declared a national emergency recognizing the threat that the ongoing outbreak of COVID–19, the disease caused by the novel (new) coronavirus known as SARS–CoV–2 (''the virus''), poses to the Nation's healthcare systems. I also determined on the same day that the COVID–19 outbreak constitutes an emergency, of nationwide scope, pursuant to section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191(b)). On March 18, 2020, I declared that health and medical resources needed to respond to the spread of COVID–19 meet the criteria specified in section 101(b) of the Defense Production Act of 1950 (50 U.S.C. 4511(b)), including that they are essential to the national defense.

Sec. 2. The Secretary of Veterans Affairs is authorized to exercise authority under Public Law 85–804, as amended (50 U.S.C. 1431 *et seq.*), to the same extent and subject to the same conditions and limitations as the head of an executive department or agency listed in section 21 of Executive Order 10789 of November 14, 1958 (Authorizing Agencies of the Government to Exercise Certain Contracting Authority in Connection with National-Defense Functions and Prescribing Regulations Governing the Exercise of Such Authority), as amended, with respect to contracts performed in support of efforts by the Department of Veterans Affairs to combat the virus. This authority may only be exercised with regard to transactions directly responsive to the COVID–19 national emergency.

Sec. 3. The Department of Veterans Affairs is exercising functions in connection with the national defense in the course of contributing to the Nation's response to the ongoing outbreak of COVID–19. I deem that the authorization provided in this memorandum and actions taken pursuant to that authorization would facilitate the national defense.

Sec. 4. This memorandum shall terminate on September 30, 2020.

Sec. 5. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

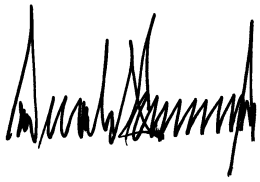
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(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.

Sec. 6. You are authorized and directed to publish this memorandum in the *Federal Register.*



THE WHITE HOUSE,
Washington, April 10, 2020

[FR Doc. 2020–08394
Filed 4–16–20; 11:15 am]
Billing code 8320–01–P

Presidential Documents

Memorandum of April 13, 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 Iowa, Kansas, Maine, Nebraska, Oklahoma, and Vermont 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 Iowa, Kansas, Maine, Nebraska, Oklahoma, and Vermont 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 Iowa, Kansas, Maine, Nebraska, Oklahoma, and Vermont 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 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:

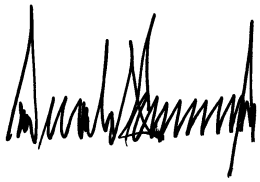
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(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 13, 2020

[FR Doc. 2020–08397
Filed 4–16–20; 11:15 am]
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